United States Court of Appeals

for the Second Circuit

APPENDIX

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WITH PROOF
OF SERVICE

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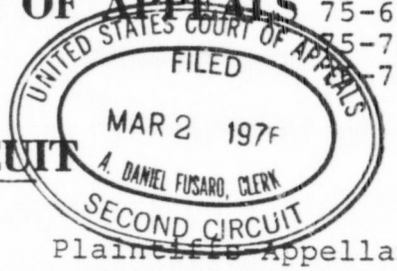
75-7011

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT



GEORGE RIOS, et al,

Plaintiffs-Appellants,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al,

Defendants-Appellees,

- -

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff-Appellant,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.

Defendants-Appellees.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

SECOND SUPPLEMENTAL APPENDIX

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[illegible] for ALL PURPOSES.

CIVIL DOCKET

UNITED STATES DISTRICT COURT

BONSALT.

jury demand date

D. C. Form No. 106 Rev.

TITLE OF CASE

9-10-74 Title changed to read :

GEORGE RICS,

EUGENE C. JENKINS,
ERIC O. LEWIS AND
WYLIE D. RUTLEDGE

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

AGAINST.

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION #638 of U.A..

MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC AND THE JOINT STEAMFITTING APPRENTICESHIP COMMITTEE OF THE STEAMFITTERS' INDUSTRY EDUCATIONAL FUND,

ATTORNEYS

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N.Y.C.N.Y. 10027

TUTO, JOHNSTON & ALLEGAERT
423 W. 118 St. NY, NY 10027 866 91
(National Employment Law Project)

For defendant:

Peter Kaiter
1140 Broadway NY 10018 LO 5-5040
Breed, Abbott & Morgan (for Mechanical Contractors Assn. of N.Y., etc.)
1 Chase Manhattan Plaza, NY 10005 943-

STATISTICAL RECORD	COSTS			DATE	NAME OR RECEIPT NO.	REC	
J.S. 5 mailed X	Clerk						
J.S. 6 mailed ✓	Marshal						
Basis of Action: SEEK INJUNCTIVE RELIEF & PAY OF UNCERTAIN AMOUNT.	Docket fee					5	—
	Witness fees						5 —
Action arose at:	Depositions						

71 CIV. 847

DATE	PROCEEDINGS	Date Judgm.
Feb26-71	Filed Complaint. Issued Summons.	
Mar.1-71	Filed summons and affidavit of service. Served Enterprise Assocation Steamfitters Local Union #638 of U.A. by James Mulligan, Sec.Treas. on 2/26/71; Served Mechanical Contractors Association of New York, Inc. by Joseph Hopkins, Secretary, on 2/26/71.; Served Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Educational Fund by Howard A. Kerr on 2/26/71.	
Mar.1-71	Filed Order to Show Cause re: Pre.Inj. Ret.3/1/71. 4- affd Serv.	
Mar.1-71	Filed Memorandum of Law in support of pltfs'.motion for pre.inj.	
Mar.2,71	Filed pltffs affidavit for an order permitting pltffs to take deposition of deft.	
Mar.2,71	Filed pltffs notice to take depostion of deft.	
Mar.2,71	Filed stip and order that the deposition of the deft may be taken on 3-12-71 Frankel J.	
Mar.15-71	Before Frankel, J. Hearing on motion for preliminary injunction, and concluded.	
Mar.24-71	Filed Affidavit in opposition to Order to Show Cause.	
Mar.24-71	Filed Affidavit of Howard A. Kerr in opposition to order to show cause.	
Mar.24-71	Filed Affidavit of Dennis R. Yaeger in support of Pltfs'.motion for pre.inj.	
Mar.24-71	Filed Memorandum on behalf of Mechanical Contractors Assn. and Employer member of Apprenticeship Committee in opposition to pltf's.motion for pre.inj.	
Mar.24-71	Filed Memorandum submitted on behalf of Enterprise Assn., Steamfitters Local 638, etc. in opposition to pltfs'.motion for pre.inj.	
Mar.25-71	Filed OPINION #37190. Frankel, J. The preliminary relief the plaintiffs seek first three will be granted. The most basic and decisive factor against Rutledge on the present motion is the weakness of his case on the merits, etc. For the reasons stated, the motion of pltf. Rutledge will be denied. A preliminary injunction will issue in favor of pltfs. Rios, Jenkins and Lewis restraining defendant Union from danying them union membership on terms and conditions, and with rights, privileges and responsibilities, equal to those of all other members enjoying the status of full journeymen, without regard to race or national origin. SETTLE ORDER ON NOTICE. (mailed notice).	
Mar.23,71	Filed stip and order that time of defts, to Answer the complaint is extended to 4-8-71 Cannella J.	
Apr.8-71	Filed ANSWER of Enterprise Association Steamfitters Local No. 638 of U.S. and the Union Members of the Joint Steamfitting Apprenticeship Committee to compl.ai	
Apr.9-71	Filed Interrogatories to deft. Enterprise Assn. Steamfitters Local Union #638 of U.A.	
Apr.9-71	Filed Interrogatories to deft. Joint Steamfitting Apprentice-ship Committee of the Steamfitters' Industry Educational Fund.	
Apr.9-71	Filed Interrogatories to deft. Mechanical Contractors Association of New York, Inc.	
Apr.9-71	Filed ANSWER of Mechanical Contractors Assn. of New York and Employer Members of the Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Educational Fund, to complaint.	
Apr.16-71	Filed defts' Memorandum in support of proposed order.	
Apr.16-71	Filed pltffs' Memorandum in support of proposed order.	
Apr.16-71	Filed ORDER that plaintiffs Rios, Jenkins and Lewis be admitted to full journeyman membership status in the Building and Construction Trades Branch of the Union with rights, privileges and responsibilities, etc., without payment of any initiation fee at this time, but reserving for final decision in this action the question whether such payment shall be required as a condition of continued membership, etc.; Ordered that the motion of pltf. Rutledge be and hereby is denied. So ordered. Frankel, J. (mailed notice).	
Apr.26-71	Filed pltffs' Notice of Motion. Ret Class Action. Ret. 5-4-71	
Apr.26-71	Filed Memorandum of law in support of pltffs' motion.	
Apr.26-71	Filed pltffs' affidavits and Memorandum of law in support of motion.	
Apr.26-71	Filed Memorandum of law in support of pltffs' motion for an assignment.	
Apr.26-71	Filed pltffs' Notice of Motion. Re: Assignment of a Judge Ret. 4-16-71	

Continued on next page.

C 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order Judgment ?
Apr.26-71	Filed MEMO. END. on motion filed 4-26-71 Pltffs' motion, not opposed by defts, for assignment of this case to one judge under general rule 2 is denied. It may not be reversed until the six present vacancies on the bench have been filled. So Ordered. Sugarman Ch. J. -mailed notice.	
May 3-71	Filed stipulation that the motion for class action be adjourned from 5-4-71 to 5-11-71	
May 7-71	Filed Affidavit in opposition to motion to maintain class action.	
May 7-71	Filed Memorandum submitted on behalf of Enterprise Assn., Steamfitters Local Union No. 638 of U.A., etc.	
May 7-71	Filed Memorandum on rule 23(c) motion in behalf of defts'	
May 7-71	Filed stip and order that time of defts to respond, object to the requests for answers to interrogs. by pltffs upon each of the defts is extended to 6-10-71 Tenney J.	
Mar.26-71	Filed Transcript of record of proceedings of Mar.15,1971.	
Mar.16-71	Filed answers to Plaintiffs' interrogs. to deft. Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Educational Fund.	
Mar.16-71	Filed Answers to Plaintiffs' interrogs. to deft. Mechanical Contractors Association of New York, Inc.	
Mar.26-71	Filed Notice of Deposition of Deft. Joint Steamfitting Apprenticeship Committee.	
Mar.26-71	Filed Notice of taking Deposition of deft. Mechanical Contractors Assn. of N.Y. Inc.	
Mar.26-71	Filed Notice of taking Deposition of Deft. Enterprise Assn. Steamfitters Local 638.	
Mar.10-71	Filed OPINION #[illegible]. Tenney, J. Plaintiffs' motion is granted to the extent indicated. SETTLE ORDER ON THREE DAYS' NOTICE. (mailed notice).	
Mar.2-71	Filed pltffs' affidavit and notice of motion to maintain this action as a class action pursuant to F.R.C.P. 23(a) and 23(b) (2) in behalf of two separate and distinct classes as indicated. Tenney J. -mailed notice.	
Mar.2-71	Filed pltffs' affidvt. and notice of motion to compel answer Re; Interrogs. Ret. 9-9-71	
Mar.2-71	Filed pltffs' Memorandum of law in support of motion to impose sanctions and to compel further answers to interrogs.	
Mar.2-71	Filed E. Richard Larson, Certificate of Service, of Notice of Motion, etc.	
Oct.16-71	Filed Plaintiffs' Second Interrogatories to Defendant Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Educational Fund.	
Oct.19-71	Filed Affidavit (of Peter Kaiser) in opposition to pltffs' motion,	
Oct.28-71	Filed Further Answers to Written Interrogatories.	
Oct.12-71	Filed report of U.S. Magistrate Harold J. Raby.	
Nov.1-71	Filed Opinion # 37987--Motion to compel further answers to various interrogs. was referred by the Court to Magistrate Harold J. Raby. Instead of denying the relief requested entirely, as recommended by the learned Magistrate, I will direct that the Union use its good officers to make available the records, etc. This should be done promptly and a report made to the Court within ten days. In all other respects the report of the Magistrate is accepted and confirmed. Gurfein, J. M/M	
Nov.2-71	Filed notice of deposition.	
Nov.12-71	Filed stipulation and order extending deft. Joint Steamfitting Apprenticeship Committee's time to answer or object to Pltfs'. Second interrogs. to 12/2/71. So ordered. Bonsal, J.	
Dec.3-71	Filed OPINION #38074. Gurfein, J. The plaintiffs should be provided by the defendants with the information described. (mailed notice).	
Dec.3-71	Filed stip and order that the time for deft. Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Education Fund, to answer pltffs' Second Interrogs. of said deft. is ext. from 12-2-71 to 12-9-71. Ryan, J.	

continued next page

DATE	PROCEEDINGS	Date Judge
Dec. 13-71	Filed deft Joint Steamfitting Apprenticeship Committee of the Steamfitters, Answers to pltffs' second interrogs.	
~~Mar. 27-72~~	~~Filed Stip. and Ordering action now rec. 3/17/72 to 4/11/72.~~	
MAR 27-72	Filed Change of Notice for Dennis R. Yeager, E. Richard Larson, & Mayer G. Freed to: 423 West 118th St. NYC.	
Jan. 7-72	Filed Notice of Motion re: Rule 2 Judge.	
Jan. 7-72	Filed Order referring this action to Hon. Dudley B. Bonsal for ALL purposes. Edelstein, Ch. J. (mailed notice)	
Oct. 11-72	Filed Plaintiffs' First Request for Admissions to Deft. Enterprise Association, Local Union #638 of U.A.	
Oct. 20-72	Filed affidavit of M.R. Walter of mailing deposition on attys for deft'	
Oct. 20-72	Filed pltff's notice to take deposition of Dennis Derryck on 10-30-72.	
Nov. 1-72	Filed deft's response to request for admissions.	
Nov. 6-72	Filed pltff's notice to produce.	
Nov. 20-72	Filed deft's Enterprise Association, Local Union NO 638 further answers, to interrogs.	
Dec. 18-72	Filed deft's Enterprise Association further response to request for, admissions.	
Dec. 14-72	Filed transcript of record of proceedings, dated 11-21-72 (Filed in 71 Civ 2377). see U.S. documents	
Jan. 15-73	Before Bonsal, J. Non-Jury trial begun.	
Jan. 16-73	Trial continued.	
Jan. 17-73	" "	
Jan. 18-73	" "	
Jan. 19-73	" "	
Jan. 24-73	" "	
Jan. 26-73	" " and concluded. Decesion Reserved.	
Apr. 19, 73	Filed transcript of proceedings dated 1/15 and 1/16, 17, 18, 1973.	
Apr. 19, 73	Filed transcript of proceedings dated 1/19, 24, 26, 1973.	
Jun 21, 73	Filed OPINION # 32600: This is an action brought by the Atty. Gen. of the U.S. under Title VII of the Civil Rights Act of 1964 (Title VII") (42 U S C Sect. 2000e et seq.) pursuant to authority granted to the Atty. Gen. in that Act (42 U S C Sect 2000e-6(a)). *** NCA's motion to dismiss the Rios action as to it is denied. ***Pltfs. seek back pay on behalf of members of the class who can show they have been victims of past discriminatory practices, and for costs and attorneys' fees. These issues are reserved for later determination. The foregoing constitutes the Court's findings of fact and conclusions of law. The Order and Judgment, in the form revieved with the attorneys for all parties, is being filed herewith. It is so Ordered. BONSAL, J. (n/m)	
Jun. 21, 73	Filed Order and JUDGMENT: Local 638 its officers, agents, employees and successors are permanently ~~enjoin~~ enjoined from engaging in any act or practice which has the purpose or effect of discriminating against any individual. ***. This court shall retain jurisdiction over this action to ensure compliance with the terms of this judgment and to enter such additional orders as may be necessary to effectuate equal employment opportunities. BONSAL, J. JUDGMENT ENTERED, Clerk ENT. June 21, 1973.	
Jun 3, 73	Filed Plf. post trial memo.	
Jun. 25, 73	Filed Govt. post trial memo.	
Jun. 25, 73	Filed post trial memo on behalf of Enterprise Association, Local 638.	
Jun. 25, 73	Filed post trial reply memo on behalf of Local 638.	
Jun. 25, 73	Filed Govt. Reply brief.	
Jun. 25, 73	Filed pltf. reply memo of law.	
Jun 26, 73	Filed Transcript of record of proceedings dated [illegible]	

DATE	PROCEEDINGS
Jul 20-73	Filed Notice of Appeal from Order&Judgment 6/21/73(Mailed Copie
Jul 20-73	Filed Undertaking for Costs of Appeal in the sum of $250.00 by the Hartford Accident and Indemnity Co.
Jul 31-73	Filed Transcript of Record of Proceedings dated 6/1/73.
Jul 31-73	Filed " " " " " 6/20/73
Aug. 2-73	Filed " " " " " 7/11/73
	Filed Enterprise Association Steamfitters affidavit & show cause order to stay portions of order & judgment ent. 6m21-73 ret before Bonsal J
Aug.8-73	Filed Affdvt by Steven J Glassman (for USA) in opposition to Order to Show Cause and Motion for Stay.
Aug 8-73	Filed Govt's Memorandum of Law in opposition to Proposed Order to Show Cause & Motion for Stay.
Aug.15-73	Filed Affdvt for Pltffs by Dennis R.Yeager.
Aug.15-73	Filed Affdvt by Dennis R.Yegrer (for pltffs)of service by mail upon Breed,Abbott & Morgan,Dalson&Gordon,Paul J.Curran,U.S.Atty on 8//7/7 of Affdvt.Memorandum of Law in opposition to application for order to show cause and stay of parts of order and judgment pending appeal.
Aug.15-73	Filed Memorandum of law by pltffs in opposition to application for order to show cause and stay of parts of order and judgment pending appeal.
Aug.16-73	Filed Joint Designation of Exhibits .
Aug.16-73	Filed Deft.Mechanical Contractors Association of NY,Inc.'s Notice of Appeal from Order and Judgment filed 6/21/73 in favor of pltffs and against deft Mechanical Contractors Assoc.of NY,Inc. with respect to so much of Order and Judgment which grants injunctive relief against deft.Mechanical Contractors of NY,Inc.(Mailed Copies)
Aug.28-73	Filed Stip & Order extending time for deft.Enterprise Assoc.Steamfitters Local 638 of U.A. to transmit the Record on Appeal to Wednesday, 9/5/73. WYATT,J.
Sep 13-73	Filed Stip & Order extending time for deft.Enterprise Assoc.Steamfitters Local 638 of U.A.to transmit Record on Appeal to Friday,10/5/73. DUNNAL,J.
Sep 20-73	Filed Affdvt by Dennis R.Yeager for pltff.
[illegible]	Filed transcript of record of proceedings, dated 11/21/72
[illegible]	Filed transcript of record of proceedings, dated 9/29/72
[illegible]	[illegible] proceedings, dated 7/11/73
-2-73	Filed Designation of the record to be transmitted to USCA by Dalson & Gordon with Affidavit of Servivce.
Oct 15-73	Filed stipulation designating documents not to be included on app
Oct 15-73	Filed stipulation that the attached documents may be transmitted t USCA as part of the record on appeal.
Oct 16-73	Filed stipulation that the attached copies of missing documnts be transmitted to USCA as part of the record on appeal.
Oct.26-73	Filed notice that record on appeal has been certified & transmitte to the U.S.C.A.
Oct.26-73	Filed pltff's affidavit & notice of motion Re: Bill of costs.
Oct.26-73	Filed affidavit of service of M.R.Walter .
Nov.2-73	Filed pltff's memorandum in support of his motion Re: Fees.
Nov.20-73	Filed affidavit of R.Brook in opposition to pltff's motion, Re: Order & Judgment.
	Filed Order that the provisions of paragraph 11 of the order & judgment entered on 6-21-73 be modified as indicated.Bonsal,J.

D. C. Jan Criminal & Bankruptcy Continuation Sheet

Cont'd on page #6

DATE	PROCEEDINGS
Feb.4-74	Filed pltff's notice of motion for back pay ret. before Bonsal,J.
Feb.4-74	Filed pltff's memorandum of law in support of pltff's motion Re: Pay.
Feb.4-74	Filed affidavit of D.R. Yeager in support of pltff's motion.
Feb.4-74	Filed affidavit of D.R.Yeager of service by mail.
Mar.29-74	Filed Order that pursuant to section C, paragraph 10 of the order & judgment filed 6-21-73, the affirmative action plan annexed hereto is adopted. So ordered. Bonsal,J.
Apr. 1-74	Filed memorandum of law or employer members of the Jac in opposition to, pltff's motions for costs, etc.
Apr. 1-74	Filed deft's EEA'S memorandum of law in opposition to pltff's motions, for costs, etc.
Apr. 1-74	Filed affidavit of T.A. Shaw,Jr. in opposition to motion of EEA for cost etc.
Apr.12-74	Filed pltff's reply memorandum in support of pltff's motion for back pay
Apr.17-74	Filed Burton H. Hall,Atty for applicants to intervene affidavit & notice of motion leave to intervene ret.4-22-74.
Apr.17-74	Filed Memorandum in support of application to intervene ret.4-22-74
Apr.19-74	Filed Order that the Equal Employment Opportunity Commission is hereby substituted as the pltff. in this action. Bonsal,J.
Apr.23-74	Filed transcript of record of proceedings dated 3-15-74.
Apr.23-74	Filed deft's Enterprise Association,Steamfitters Local 638 notice of appeal from order adopting affirmative action plan entered on 3-29-74 mailed copies to U.S.Atty, Dennis R. Yeager,Esq'l Employment Law, Project & Thomas A. Shaw, Jr. Dread Abbott & Morgan.
Apr.23-74	Filed Bond undertaking costs of appeal in the sum of $250.00 by Hartford Accident & Indemnity Co.
May.1-74	Filed Applicants to intervene affidavit & notice of motion to hold deft. Enterprise Assoc. Local 638 in contempt, ret.5-6-74.
May.1-74	Filed Applicants to intervene memorandum in support of motion ret.5-6-74
May.1-74	Filed pltff's memorandum of law in opposition to motion to intervene.
May.3-74	Filed Government's memorandum in opposition to motions to intervene & for contempt.
May.3-74	Filed affidavit of personal service by R.S.Selig.
May.3-74	Filed deft's Enterprise Assoc. Steamfitters Local 638 in opposition to motion for contempt.
May.3-74	Filed affidavit of V.E.Brennan in opposition to motion to intervene & motion to proceed as class action.
May.1-74	Filed affidavit of J.Lang Re: opposition to the application for intervention by J.Gauther,etal
May.1-74	Filed affidavit by T.A.Shaw,Jr. on motion to intervene.
May.3-74	Filed affidavit of J.J.Sheeran in opposition to motion for contempt.
May.3-74	Filed deft's Enterprise Assoc. Steamfitters Local 638 in opposition to motion to intervene.
June 5-74	Filed stip regarding unified documents to be transmitted to USCA
June 6-74	Filed transcript of record of proceedings dated 3-15-74. Also entered in 71 Civ 2877. see 42 1st Supp 2877
June 5-74	Filed notice that record on appeal has been certified & transmitted to the U.S.C.A. on this 7th day of June ,1974.
[illegible]	Filed memo & order applicants to intervene filed 3/1/74; motion that local 638 in contempt is denied. [illegible] Filed this day. Bonsal,J.
[illegible]	Filed Mandate #72442; for the foregoing reasons, the motion to [illegible] Bonsal,J.

-cont'd. on next page-

DATE	PROCEEDINGS
Jul.10/74	Filed transcript of record of proceedings dtd 2/7/74.
Jul.1/74	Filed affdvt. of Dennis R. Yeager re: hours by Mr. J. Lang.
Jul.2/74	Filed pltff's second interrogs. to deft. Mechanical Contractors.
Jul.1/74	Filed transcript of record of proceedings dated 1/21/74.
Jul.2/74	Filed reply memorandum of the part of applicants to intervene.
Jul.2/74	Filed reply affdvt. of Chas. T. Duvall re efforts of Lang,et al.
Jul.2/74	Filed application to intervene & notice of appeal from order dtd 6/27/74, mailed copies to all counsel. (Yeager)
Aug.13-74	Filed deft.Mechanical Contractors objections to pltff's second set, of interrogs.
Aug. 7-74	Filed pltff's memorandum Re: award of attys fees.
Sep.12-74	Filed Supplemental record on appeal has been certified & tramsmitted, to the USCA on this 12th day of Sept.,1974
9-18-74	Filed transcript of record of proceedings, dated 9-12-74
Sep.16-74	Filed pltff's reply memorandum on back-pay & attys fees.
11/26/74	Filed transcript of record of proceedings, dated 7/30/74
Jan.21-75	Filed affidavit of Dennis R. Yeager Re: atty's fees & costs.
Mar.19-75	Filed Union's supplemental memorandum relating to recalculation of the percentage goal.
3-28-75	Filed transcript of record of proceedings, dated 1-23-75
04-11-75	Filed pltff's memorandum of law on deft's liability & the statute of limitations.
04-11-75	Filed Union's supplemental memorandum concerning back pay,attys fees & costs.
05-05-75	Filed Opinion #42354: The court, upon remand from the court of appeals after an appeal by deft. (Local 638 or the Union)., has reconsidered, as discussed herein, the percentage goals for non-white membership in the A Branch of Local 638. The court finds that the percentage goal of 26% non-white membership in local 638 by July 1,1977 is reasonable & amply supported by reliable factural data. The foregoing shall constitute the court's findings of fact & conclusions of law. Settle order on notice. Bonsal,J. m/n
05-21-75	Filed deft. Local 638-s interrogs. to pltffs. George Rios,et.al.
3/28/75	Filed transcript of record of proceedings, dated 3/17/75
06-27-75	Filed Memorandum #42688: Motion disposed of as indicated. The foregoing shall constitute the court's findings of fact & conclusions of law. Settle order on notice. Bonsal,J. m/n
06-27-75	Filed Memorandum #42689: Pltff's seek an award of back pay for the members of the class they represent. The pltff's, the Local 638 are invited to suggest methods to efficiently administer this pla for making back pay awards. Settle order on notice. Bonsal,J. m/n
06-23-75	Filed pltff's objections to deft. Local 638's interrogs.
7/17/75	Filed transcript of record of proceedings dated 4-/17, 18, /75 (ALSO DOCKETED 71 CIV. 2877)
07-21-75	Filed Notice of appearance for pltffs. National Employment Law Project,Inc. (also docketed in 71 Civ.867) (71 C 2877)
08-27-75	Filed true copy of order and opinion of the U.S.C.A. that the order of the District Court is affirmed in accordance with the opinion of this Court with costs to be taxed against the appellants. Clerk (docketed as a judgment # 75,710 on 8-28-75 Clerk) m/n

D. C. 107 Criminal Continuation Sheet

PROCEEDINGS

A-746

Filed affdvts. of Della Shaw of service of order with notice of settlement on 9-22-75 upon Tufo,Johston & Allegaert, P. Curran, M. Walter & Breed,Abbott & Morgan.(also in 71 Civl 2877)

Filed ORDER that pltff's motions are granted to the extent that back pay will be paid by ENTERPRISE ASSOCIATION STEAMFITTERS Local 638 of U.A (Local 638) to each member of the class who files a written claim for back pay with the Administrator, Vincent McDonnell 127 East 35th St.N.Y. 10017 on or before March 31,1976, etc. Bonsal,J. Judgment Ent. Clerk. m/n Ent.10-17-75 m/n

Filed ORDER that attys fees shall be awarded to the project to be paid by deft. Enterprise Association Steamfitters Local 638 of U.S. in three equal annual installments, the first to be paid within 90 days, the second to be paid one year after the first payment the third to be paid two years after the first payment. In all other respects the motions are denied.Bonsal,J. Judgment Ent. Clerk. m/n Ent.10-17-75.

Filed Pltff's affidavit & notice of motion to alter or amend judgment of 10-9-75. Ret.11-3-75.

Filed pltff's (National Employment Law Project) memorandum of law in suppoet of pltff's motion ret.11-3-75.

Filed affidavit of Richard Brook in opposition to motion to amend or alter order.

Filed pltff's in this action notice of appeal to the USCA from order entered on 10-17-75. Mailed copies to Delson & Gordon ,Breed, Abbott & morgan, U S.Atty.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A-747

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS' LOCAL UNION #638 OF U.A., et al., Defendants.	NOTICE OF MOTION 71 Civ. 847

SIRS:

PLEASE TAKE NOTICE that the annexed Motion for Back Pay will be heard by United States District Judge Dudley B. Bonsal at the United States Court House, Foley Square, New York, New York at a time and place to be fixed by the Court.

Plaintiffs make this motion pursuant to paragraph 24 of the Order and Judgment of United States District Judge Dudley B. Bonsal entered June 21, 1973, 42 U.S.C. §2000e-5(g) and 42 U.S.C. §1981.

Yours etc.,

/s/ Dennis R. Yeager

DENNIS R. YEAGER
423 West 118th Street
New York, New York 10027
(212) 866-8591

ATTORNEY FOR PLAINTIFFS

Dated: February 2, 1974
New York, New York

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS' LOCAL UNION #638 OF U.A., et al., Defendants.	MOTION FOR BACK PAY 71 Civ. 847

UPON the Complaint and Order and Judgment filed herein and all prior proceedings herein,

IT IS HEREBY MOVED, pursuant to paragraph 24 of the Order and Judgment of United States District Judge Dudley B. Bonsal, entered June 21, 1973, 42 U.S.C. §2000e-5(g) and 42 U.S.C. §1981 that class-wide back pay be awarded in 71 Civ. 847.

Respectfully submitted,

/s/ Dennis R. Yeager

DENNIS R. YEAGER
423 West 118th Street
New York, New York 10027
(212) 866-8591

ATTORNEY FOR PLAINTIFFS

Dated: February 2, 1974
New York, New York

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs,	:	
-against-	:	71 Civ. 847
ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 of U.A., et al., Defendants.	:	
	:	AFFIDAVIT
UNITED STATES OF AMERICA, Plaintiff,	:	
-against-	:	71 Civ. 2877
ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 of U.A., et al., Defendants.	:	DBB

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

THOMAS A. SHAW, JR., being duly sworn, deposes and says:

1. I am a member of Breed, Abbott & Morgan, attorneys for 1) the Mechanical Contractors Association of New York, Inc. ("MCA"), and 2) the employer members of the Joint Apprenticeship Committee of the Steamfitting Industry Education Fund ("JAC"). I make this affidavit in opposition to the motion of the United States for costs and in opposition to the motions of the plaintiff classes for back pay, costs and attorneys' fees.

2. Relevant to the resolution of these motions is the relative involvement of MCA and the JAC in the alleged

discrimination, as compared to that of Local 638 which the Court specifically found ". . . in the past and continuing to the present, has engaged in a pattern and practice of discrimination against non-whites in admission to the A Branch" (360 F.Supp at 989). A-750

But even as to Local 638, the Court specifically found that there was no evidence that it or MCA has engaged "in purposeful discrimination against non-whites," as contrasted with the situation in the Metal Lathers case (360 F.Supp at 990), the case upon which Rios counsel place particular reliance.

THE INVOLVEMENT OF MCA

3. MCA was not even charged with any wrongdoing by the Government, which merely named it as a defendant "for purposes of relief only pursuant to rule 19(a)(1) of the Federal Rules of Civil Procedure" (360 F.Supp at 983). Accordingly, none of the Government's costs should, or indeed can, be imposed on MCA.

The Court did not find that MCA had unlawfully discriminated, as alleged by Rios. In fact, the Court rejected every single proposed finding of fact tendered by counsel for Rios which was directed at MCA. Rather, the Court's finding with respect to MCA was as follows (360 F.Supp at 995):

> "[26] Having found that MCA was properly made a party defendant in the Rios action, this Court, however, does not of course imply that MCA has been responsible ipso facto for all the employment practices here found unlawfully discriminatory or that it is liable in damages to the plaintiffs in Rios. Plaintiffs have shown no specific instances of MCA discrimination. Rather, plaintiffs have demonstrated only that there has been a lack of nonwhite employment in the industry generally and that, in consequence, the industry's referral practices must be changed."

4. At the first post-trial conference in this case held before the Court on April 26, 1973, the Court announced that it had tentatively come to the conclusion that MCA was an "employer" within the meaning of Title VII but that its inclusion in the Decree would be:

> "From the point of view of equitable relief only. This doesn't apply to any legal relief, but from the point of view of equitable relief.
>
> In other words, what I am trying to do here, really, is to work out a program which inevitably has got to involve you [MCA] and the unions and JAC . . . ." (Tr., p. 19)

5. Later in the conference, after having outlined the general scheme of the Judgment including the provision for appointment of an Administrator, the Court pointed out the importance of deciding on the name of the Administrator quickly and stated:

> "I was thinking over the people who testified at the preliminary injunction and the trial and the only one fellow, and I don't think he would be at all interested in it, would be Hopkins." (Tr., p. 40)

6. Joseph Hopkins, Secretary of MCA, obviously could not accept the position of Administrator, but the Court's comments accurately reflected the evidence in the record that MCA under the leadership of Mr. Hopkins had taken a positive and affirmative role in promoting minority employment in the steamfitting industry and with some success. For example, the 160 non-whites who were admitted to the A Branch of Local 638 pursuant to this Court's January 3, 1972 Order were, as the Court found (360 F.Supp at 989) "already employed in the steamfitting industry."

7. Indeed, The Recruitment and Training Program, which is a named minority referral source in paragraph 11b

of the Decree, also made an unsolicited recommendation of Mr. Hopkins for Administrator. By letter dated June 4, 1973 to the U.S. Attorney, RTP had this to say about Mr. Hopkins in nominating him:

> "Joseph Hopkins, Secretary Mechanical Contractors Association, Inc. He has a long history of working toward placing minorities into the steamfitting industry. Mr. Hopkins was responsible for placing the first minority workers into both the A and B divisions of Local 638 as far back as 1966." (Conference of June 7, 1973; Tr., p. 167)

8. As fully set forth in our memorandum of law, we contend that none of the awards sought against MCA can be granted as a matter of law. Insofar as the Court disagrees and regards the matter as one within its discretion, we respectfully submit that on this record, the Court's discretion should be exercised in favor of MCA and against any such award.

THE INVOLVEMENT OF THE JAC

9. JAC is a joint labor-management committee appointed by the trustees of the Steamfitters Industry Educational Fund created pursuant to a 1960 Declaration of Trust (360 F.Supp at 985). Mr. Hopkins is one of the four management trustees. The Apprenticeship Program which JAC administers must be paid for out of the limited funds generated from employer contributions pursuant to a fixed formula in the collective bargaining agreements. The Education Fund has no other source of funds.

The Court did not find that the JAC had purposefully discriminated against non-whites; rather it found that since 1964, JAC had selected apprentices on the basis of a competitive written aptitude examination selected with the advice of New York University in 1964 and later with the advice of

Stevens Institute of Technology (360 F.Supp at 987), which had a differential impact on non-whites when compared with the results for whites. The key finding of fact against JAC by the Court was merely (360 F.Supp at 992):

> "With respect to the tests given by Stevens Institute, while there was some evidence of construct validity, there was no evidence of their criterion-related validity nor that a criterion-related study had been completed or planned. Without such evidence, the tests used by JAC from 1964 to 1971 cannot be considered job related, notwithstanding the difficulty of devising a fair test or of testing it for validity."

10. By paragraph 16 of the Order and Judgment dated June 21, 1973, the JAC was required to indenture 400 new apprentices (including 175 non-whites) - more than were then in the program. The Affirmative Action Program requires the annual indenturing of a minimum of 100 non-whites unless the Administrator otherwise determines. The indenture and training of this large a number of apprentices is obviously expensive. All of JAC's limited funds should be devoted to this purpose. Any award of attorneys' fees, back pay or costs against JAC can only adversely affect JAC's ability to properly train apprentices and would therefore tend to defeat the purpose of these actions and of the Decree.

RIOS APPLICATION FOR BACK PAY

11. The Rios plaintiffs, in their Motion For Back Pay demand "that class-wide back pay be awarded." No affidavits or evidence is tendered in support of the motion. As we submit in our memorandum of law, the motion should be denied as a matter of law.

RIOS APPLICATION FOR ATTORNEYS' FEES

12. At a conference before the Court on February 8,

1973, defendants requested an opportunity to obtain further information with respect to this branch of Mr. Yeager's motion. The Court granted the request and asked that it be done on an informal basis. Thereafter, the attorneys for the defendants jointly agreed to incorporate requests for information in a single letter dated February 15, 1974, and Mr. Yeager replied by letter dated February 21, 1974. Copies of these two letters are annexed as Exhibits A and B.

13. As to attorneys' fees, Mr. Yeager's letter establishes three points:

(a) that the National Employment Law Project which provided the attorneys, including Mr. Yeager, who represented the class plaintiffs at no cost to them, has only one relevant source of funds - the United States Government. Although Mr. Yeager states that "The only significant non-governmental source of funds for the Project is Trinity Church, which supports the 'Trinity Fellow' who is assigned to the Project.", the Trinity Fellow apparently did no work on this case, and in any event, the Trinity Fellowship money was only "approximately 3% of the Project's budget in 1972";

(b) the Project has sought attorneys' fees in three cases, but has been granted them in none; and

(c) Mr. Yeager refused to supply most of the data requested relating to attorneys' fees, all of which, we submit, must be adduced to this Court in support of the application for class action attorneys' fees under the rules laid down by the Court of Appeals for the Second Circuit in the very recent case of City of Detroit v. Grinnell, NYLJ, March 19, 1974, as discussed in our memorandum of law.

APPLICATIONS FOR COSTS AND DISBURSEMENTS

14. As already noted, the Government's application for costs and disbursements is inapplicable to MCA, since it was not a true defendant in the Government's action.

15. As against the JAC, we submit that only such of the Government's and Rios' claimed costs as directly relate to the case against the JAC should be taxed against it in the event that the Court decides to tax any costs at all against the JAC. The Government for example, claims $1,749.61 in witness fees, for witnesses, most of whom testified at the preliminary injunction hearing which had nothing to do with either MCA or the JAC, and those who testified at the trial did not testify with respect to either MCA or the JAC. The fees of the marshall presumably relate to service of subpoenas upon these same witnesses. The court reporter fees claimed apparently include the cost of transcript of the preliminary hearing and the costs incident to taking of depositions in major part relate almost entirely to depositions of Union officers and business agents which should not be taxed to the JAC or MCA.

16. In addition to their bill of costs, the Rios plaintiffs seek "disbursements" which are revealed in Mr. Yeager's letter (Exhibit B annexed hereto) to consist of a $1,349 fee paid to Dr. Barrett and a total of $625 for "travel" on the part of plaintiff Lewis ($300), expert witness Derryck ($100) and attorney Yeager himself ($225). None of these "disbursements" are allowable, as demonstrated in our memorandum of law.

CONCLUSION

17. For the foregoing reasons, it is respectfully

submitted that the Government's application for costs as against MCA and the Rios plaintiffs' applications for back pay and attorneys fees be denied as a matter of law or alternatively in the exercise of discretion of the Court. As to the Government's application for costs as against the JAC and the Rios plaintiffs' application for costs against both MCA and the JAC, it is respectfully submitted that they be denied in the exercise of discretion of the Court, or alternatively that such of the costs as the Court finds proper be apportioned and taxed to the appropriate party defendant.

/s/
Thomas A. Shaw, Jr.

Sworn to before me
this 29th day of March, 1974

Notary Public
KEVIN T. O'REILLY
NOTARY PUBLIC, State of New York
Qualified in Bronx Co.
Certificate filed in New York County
Commission Expires March 30, 1975

LAW OFFICES
DELSON & GORDON
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(212) MU 6-8030
CABLE "DELEGOR"
TELEX 236153

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1900 L STREET N.W.
WASHINGTON, D. C. 20036
(202) 833-9540

A-757

February 15, 1974

Dennis R. Yeager, Esq.
National Employment Law Project
423 West 118th Street
New York, New York 10027

Re: George Rios et al. v. Enterprise Association, Steamfitters Local 638 et al.
71 Civ. 847

Dear Mr. Yeager:

During the February 8, 1973 conference concerning the above case, Judge Bonsal instructed the defendants to seek information from you concerning your motion for attorney's fees on an informal basis. In accordance with those instructions, and after consultation among the attorneys for defendants, all defendants jointly request the following which should be furnished to both this firm and to Breed, Abbott & Morgan:

1. copies of all documents (including contracts) and correspondence showing the amounts, conditions, purposes and instructions of all grants or compensation made to the National Employment Law Project ("Project") by the Office of Economic Opportunity ("OEO") during the period of this lawsuit;

2. copies of the contract and/or contracts between the Equal Employment Opportunity Commission ("EEOC") and the Project and all documents and correspondence concerning any grants from EEOC to the Project during the period of this lawsuit;

3. the total amounts received by the Project from OEO and EEOC, separately stated, for each year 1971, 1972 and 1973;

4. state whether the Project used funds other than those granted by or received from OEO and/or EEOC to pay the salaries of Project employees who were engaged in this case, or expenses incurred by the Project in connection with this case; state the amounts and sources of such other funds; state the names of employees whose salaries were paid by such other funds;

5. state the amount of the combined yearly salaries (i.e., the total of the four salaries) of Dennis R. Yeager, E. Richard Larson, Mayer G. Freed and Marilyn R. Walter for each year 1971, 1972 and 1973;

6. the total number of Project employees and the total combined yearly salary of all Project employees for each year 1971, 1972 and 1973;

7. the total expenditures of the Project for each year 1971, 1972 and 1973;

8. (a) state whether the Project, or Project employees represented plaintiffs in any other lawsuit that has been tried; identify each such case by its case name, citation if any, court, index number and the dates each case was filed, tried and decided;

(b) as to each case listed in response to Paragraph 8(a) above, state separately as to each case whether attorney's fees were sought; and state separately as to every case whether attorney's fees were awarded or not awarded;

(c) state as to each case in which attorney's fees were granted in any case described in Paragraph 8(b), the amount of fees awarded in each case by name and as to each such case whether EEOC and/or OEO funds were used by the Project in that case;

(d) as to each case in which attorney's fees were not granted in any case listed in response to Paragraph 8(b) state as to each case by name, the reason stated by the Court for not granting fees, the citation of each such case if reported, and a true copy of the Court's Opinion and Judgment for each such case if unreported.

In light of the fact that defendants' answering papers are due on March 1, 1974, we would appreciate your earliest possible response.

Very truly yours,

DELSON & GORDON

Richard Brook

RB/ela

cc.: Hon. Dudley B. Bonsal, U.S.D.J.
Vincent D. McDonnell, Esq.
Thomas A. Shaw, Esq.
Joel B. Harris, Esq.

National Employment Law Project

423 West 118th Street
New York, N. Y. 10027
(212) 866-8591

A-760

February 21, 1974

Richard Brock, Esq.
Delson & Gordon
230 Park Avenue
New York, N. Y. 10017

Re: George Rios et al. v. Enterprise Association, Steamfitters Local 638 et al., 71 Civ. 647

Dear Mr. Brook:

As I mentioned to you in our telephone conversation yesterday and to you and Mr. Shaw in our meeting today, I was quite surprised by the tenor and extent of your inquiries concerning this Project in your letter of February 15, 1975. Those inquiries go far beyond anything suggested by Mr. Shaw before Judge Bonsal (Tr. of Post-Trial Proceedings, 2/8/74 at 5) and seek much information irrelevant to anything related to an application for attorneys' fees. While I stand ready to assist you in verifying the amounts sought, I must inform you that I will resist broad-scale inquiries into the operations of this law office as, I am sure, you and Mr. Shaw would resist similar inquiries into the internal affairs of your respective offices. Each of your inquiries relates to the internal affairs of this law office and is irrelevant to the question of attorneys' fees in this case.

However, without prejudicing our position that the information sought is irrelevant and improperly seeks information on the internal affairs of this office and in an effort to be as cooperative as possible, I am providing you with the information I agreed to provide in today's meeting:

(1) The only significant non-governmental source of funds for the Project is Trinity Church, which supports the "Trinity Fellow" who is assigned to the Project. The total Trinity Fellowship money was slightly more than approximately 3 per cent of the Project's budget in 1972, slightly more than approximately 8 per cent of the Project's budget in 1973 and is projected to be slightly more than approximately 6 per cent of the Project's 1974 budget.

(2) The Project has tried three cases, in addition to this one, in which attorneys' fees were sought:

(a) In Sims v. Sheet Metal Workers Local Union No. 65, plaintiffs briefed the question of attorneys' fees in their post-trial memorandum and the district court opinion was silent as to attorneys' fees. See 353 F.Supp. 22 (W.D. Okla. 1972). The Court of Appeals remanded the case for consideration of, inter alia, attorneys' fees. See 6 E.P.D. ¶9035 at 6341.

(b) In Dublino v. New York State Department of Social Services, plaintiffs' proposed order, submitted 8/7/72, contained a provision for attorneys' fees; the court's order (copy enclosed) denied such fees. Plaintiffs later moved for contempt and, when defendants were found to have violated the order, sought attorneys' fees by motion filed 4/5/73. That motion was not decided and probably will not be in light of the fact that the decision on the merits was reversed by the Supreme Court of the United States.

(c) In Woolfolk v. Brown, plaintiffs sought attorneys' fees in connection with a contempt motion. Such fees were denied. See 353 F.Supp. 524, 535 et seq.

The other information which you requested in today's meeting is as follows:

(1) Depositions:

Mr. Murray	3/12/71	$ 197.90
Dr. Gottesmann	2/10/72	182.00
Mr. Kerr (3/22/72) & Mr. Hopkins (4/5/72) (separate break-out not provided on court reporter's bill)		672.15
Mr. Tracey	5/17-19/72	398.35
Dr. Derryck	10/30/72	116.50
		$1,566.90

(2) Witness fees

Dr. Barrett $1,349.00

(3) Witness travel

Dr. Derryck $ 100.00
Dr. Barrett $ 300.32

The $225.97 travel (other than witnesses) represents my travel expenses to attend the post-trial conference of 6/8/73.

Sincerely,

Dennis R. Yeager
Attorney for Plaintiffs

DRY:dl
Enclosure
cc: The Hon. Dudley B. Bonsal
Vincent D. McDonnell, Esq.
Thomas A. Shaw, Esq.
Joel B. Harris, Esq.

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

DOLORES DUBLINO, *et al.*,

v.

NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES, *et al.*

Civ—1971-306.

Sir:

Take notice of an Order, of which the within is a copy, duly granted in the within entitled action on the 25th day of August, 1972, and entered in the Office of the Clerk of the United States District Court, Western District of New York, on the 25th day of August, 1972.

Dated: Buffalo, New York, August 25, 1972.

JOHN K. ADAMS, Clerk
U. S. District Court
U. S. Courthouse
Buffalo, New York 14202

To Michael A. O'Connor
Attorney for Plaintiffs

To Mayer G. Freed
Attorney for Plaintiffs

To Jean M. Coon
Attorney for Defendant—NYS

To Leonard C. Koldin
Attorney for Defendant—Lascaris

To Gregory Mauro
Attorney for Defendant—Erie County

Federal Rules of Civil Procedure 77(d)

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

DOLORES PUBLANO, DORIS JIMERSON, VIRGINIA MICHAEL, JANIE LEE PHILLIPS, and MARIA MARFOGLIA, on behalf of themselves and their minor children,

Plaintiffs,

vs.

NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES; its Commissioner, GEORGE K. WYMAN; NEW YORK STATE DEPARTMENT OF INDUSTRIAL RELATIONS; its Commissioner, LOUIS L. LEVINE; ERIE COUNTY DEPARTMENT OF SOCIAL SERVICES and its Commissioner, GEORGE G. SIPPRELL,

Defendants,

and

ONONDAGA COUNTY DEPARTMENT OF SOCIAL SERVICES and its Commissioner, JOHN L. LASCARIS,

Defendant-Intervenors.

Civil 1971—306.

This action having come on to be heard on the merits before the Court, the Honorable James L. Oakes, Circuit Judge, the Honorable John O. Henderson and the Honorable John T. Curtin, District Judges for the Western District of New York, and after hearing arguments of counsel, the Court having rendered its opinion on July 28, 1972, and the Court having considered judgments proposed by plaintiffs and defendants, it is hereby ORDERED, ADJUDGED and DECREED:

1. That pursuant to 28 U. S. C. §§ 2201 and 2202, N. Y. Soc. Serv. L. §§ 131(4) and 350-j, 18 N. Y. C. R. R. Part 385, and all Administrative Letters of the New York State Department of Social Services issued pursuant thereto (these statutes, regulations, and Administrative Letters are hereafter referred to collectively as the "New York Work Rules"), be and are hereby declared to be in conflict with § 402(a)(19) of the Social Security Act of 1935 as amended, 42 U. S. C. § 602(a)(19), and to be preempted by §§ 402(a)(19) and 420 *et seq.* of the Social Security Act of 1935, as amended, 42 U. S. C. §§ 602(a)(19) and 630 *et seq.*, and are unconstitutional under the supremacy clause of Article VI of the United States Constitution, insofar as they are applied to applicants for or recipients of Aid to Families with Dependent Children and Aid to Families with Dependent Children—Unemployed Parent (these two programs will hereafter be referred to as "AFDC") in the State of New York.

2. That from 60 days after the date of this order and judgment, defendants, their successors, agents, and all persons acting in concert with them, be and hereby are permanently enjoined, ordered and directed to cease all enforcement of the New York Work Rules against recipients of and applicants for AFDC in the State of New York.

3. That defendants New York State Department of Social Services and its Commissioner, Abe Levine, be and are hereby enjoined, ordered, and directed to require each local Social Services District in the State of New York to deliver all checks for AFDC benefits by mail, such checks to be for the full monthly or semi-monthly benefit, and to cease requiring any AFDC recipients, including any person

participating in the Work Incentive Program, to obtain his or her check for AFDC benefits by reporting in person to an office of the State Employment Service. Delivery of checks by mail shall commence within 60 days of the date of this order and judgment.

4. That plaintiffs' First, Second and Third Causes of Action be and are hereby dismissed, except that with respect to plaintiffs' Second Cause of Action, defendants New York State Department of Social Services and its Commissioner, Abe Lavine, be and hereby are enjoined, ordered and directed to adopt and implement by September 20, 1972, suitable means of informing each recipient of Home Relief, who has been declared employable pursuant to the New York Work Rules, of his rights to a fair hearing on the issue of employability.

5. Plaintiffs are hereby awarded costs but not attorneys' fees.

6. Implementation of the foregoing judgment will be subject to further order of this Court upon due application as justice may require.

JAMES L. OAKES
U.S.C.J.

JOHN O. HENDERSON
U.S.D.J.

JOHN T. CURTIN
U.S.D.J.

Dated:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al.,

Plaintiffs,

-against-

71 Civ. 847

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,

Defendants.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

-against-

71 Civ. 2877

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,

Defendants.

Appearances:

DENNIS R. YLAGER, ESQ.
MARILYN R. MALTER, ESQ.
National Employment Law Project, Inc.
423 West 118th St., New York, N.Y. 10027
Attorneys for Plaintiffs Rios, et al.

HON. PAUL J. CURRAN,
United States Attorney for the
Southern District of New York
Attorney for Plaintiff Equal Employment
Opportunity Commission
STEVEN J. GLASSMAN, ESQ.,
Assistant United States Attorney
Of Counsel

(Appearances continued)

NELSON & GORDON, ESQS.
230 Park Avenue, New York, N.Y. 10017
Attorneys for Defendants Local 638 and
the Union Members of JAC
RICHARD BROOK, ESQ.
Of Counsel

BREED, ABBOTT & MORGAN, ESQS.
1 Chase Manhattan Plaza, New York, N.Y. 10005
Attorneys for Defendants ACA and
the employer members of JAC
THOMAS A. SHAW, JR., ESQ.
KEVIN O'REILLY, ESQ.
Of Counsel

MEMORANDUM

MONGAL, D. J.

The plaintiffs in Rios v. Enterprise Association Steamfitters Local 638 of U.A., 71 Civ. 847, move for back pay for members of the plaintiff classes.

This motion arises from a protracted litigation under Title VII of the Civil Rights Act of 1964, as amended. See Rios v. Enterprise Association Steamfitters Local 638 of U.A., 71 Civ. 847 (S.D.N.Y. May 5, 1975); United States v. Local 638, Enterprise Association of Steam, etc., 360 F.Supp. 379 (S.D.N.Y. 1973), aff'd but remanded in part, 501 F.2d 622 (2d Cir. 1974); United States v. Local 638, etc., 337 F.Supp. 217 (S.D.N.Y. 1972); Rios v. Enterprise Association Steamfitters Local Union No. 638 of U.A., 326 F.Supp. 198 (S.D.N.Y. 1971); Rios v. Enterprise Association Steamfitters Local Union #638 of U.A., 54 F.R.D. 234 (S.D.N.Y. 1971).

Plaintiffs seek an award of back pay for the members of the class they represent.[1] Specifically, plaintiffs seek back pay

for (1) non-white A Branch [2] members who, though qualified, were denied jobs as a result of the discriminatory work referral practices fostered by defendants; (2) non-white members of the B Branch who were not admitted to the A Branch; (3) other persons qualified to be A Branch members who were either denied membership in the A Branch or were discouraged from applying for membership or from seeking employment in the steamfitting industry; (4) persons who, with on-the-job training, were capable of learning the skills necessary to be a journeyman steamfitter; and (5) unskilled persons who were denied admission to the apprenticeship program, or who, once admitted, dropped out, or who were deterred from applying to the apprenticeship program because of defendants' discriminatory policies and tests.

Plaintiffs' motion is granted to the extent that back pay will be awarded to qualified members of the plaintiff class who applied in writing for membership in the A Branch and who were discriminatorily denied admission after October 15, 1968. [3]

Back pay for others for whom it is sought will be denied since (1) damages, if any, arising from alleged discriminatory work referral practices are not ascertainable since Local 638 had no hiring hall and there are no accurate records of job openings for the period involved; (2) damages to persons who did not make formal written application to the A Branch are hypothetical; and (3) damages suffered as a result of the apprenticeship program are speculative, and equitable considerations weigh against making these back pay awards since the admission tests used by defendants were registered

with the United States and New York State Departments of Labor and were adopted by defendants in good faith on the recommendation of experts.

The Applicable Standard

Title VII provides in pertinent part:

> "If the court finds that the respondent has intentionally engaged in ... an unlawful employment practice ..., the court may enjoin the respondent ... and order such affirmative action as may be appropriate, which may include ... reinstatement or hiring of employees, with or without back pay (payable by the [party] responsible for the unlawful employment practice) ...." 42 U.S.C. §2000e-5(g).

Thus, the statute grants wide discretion to award back pay when warranted by the circumstances of the case and a court must make such determinations on a case-by-case basis. See, e.g., Albemarle Paper Co. v. Moody, 43 U.S.L.W. 4600 (U.S. June 25, 1975); Kober v. Westinghouse Electric Corp., 480 F.2d 240 (3d Cir. 1973); Manning v. International Union, 466 F.2d 812 (6th Cir. 1972), cert. denied, 410 U.S. 946 (1973); Schaeffer v. San Diego Yellow Cabs, Inc., 462 F.2d 1002, 1006 (9th Cir. 1972); LeBlanc v. Southern Bell Telephone & Telegraph Co., 460 F.2d 1228 (5th Cir.), cert. denied, 409 U.S. 990 (1972). Cases which hold that an award of back pay is required by Title VII "unless special circumstances render such an award unjust" also require a case-by-case analysis. See Pettway v. American Cast Iron Pipe Co., 494 F.2d 211, 251-53 (5th Cir. 1974); Johnson v. Goodyear Tire & Rubber Co., 491 F.2d 1364, 1374-77 (5th Cir. 1974); Head v. Timken Roller Bearing Co., 486 F.2d 870

(6th Cir. 1973); Bowe v. Colgate-Palmolive Co., 416 F.2d 711 (7th Cir. 1969).

In making awards for back pay, all the circumstances of the case, including ability to pay, must be taken into account. See Thornton v. East Texas Motor Freight, 497 F.2d 416, 421-22 (6th Cir. 1974); United States v. Georgia Power Co., 474 F.2d 906, 919-22 (5th Cir. 1973). See also Laffey v. Northwest Airlines, Inc., 374 F.Supp. 1382 (D.D.C. 1974).

Local 638. -- Local 638 was not an employer, nor was it conducting a business for profit. Local 638 is an association of workers united for their mutual protection, which is supported by dues and other assessments collected from its members to cover expenses and, from time to time, to support a strike fund. Financial data submitted by Local 638 indicates that it has limited financial resources.

Back pay is compensation for "tangible economic loss" to be paid by parties responsible for that loss (see, e.g., Johnson v. Goodyear Tire & Rubber Co., supra at 1301-02; Robinson v. Lorillard Corp., 444 F.2d 791 (4th Cir. 1971); 42 U.S.C. §2000e-5(g)). Since it was found at the trial that Local 638 engaged in a pattern and practice of discrimination against members of the plaintiff class, it is liable to provide back pay in cases of such discrimination. 360 F.Supp. at 939.

MCA. -- Plaintiffs seek to have MCA share in the burden of providing back pay. MCA, a trade association of certain con-

tractors in the New York area, acts only in collective bargaining negotiations between its members and Local 638. MCA does not employ steamfitters; rather, employment is done by its members. While MCA was found to have been properly made a party defendant in the Rios action (300 F.Supp. at 994-95), that finding did not imply that MCA was "responsible ipso facto for all the employment practices here found unlawfully discriminatory or ... liable in damages to the plaintiffs in Rios. Plaintiffs have shown no specific instances of MCA discrimination. Rather, plaintiffs have demonstrated only that there has been a lack of nonwhite employment in the industry generally and that, in consequence, the industry's referral practices must be changed." Id. at 995-96.

JAC. -- JAC, a joint labor-management committee composed of four members chosen by MCA and four members chosen by Local 638, has conducted the steamfitters' apprenticeship program throughout the years relevant to the actions at bar. However, JAC has no demonstrated responsibility for direct admissions to the A Branch of Local 638 of persons already qualified as journeyman steamfitters.

Therefore, only Local 638 is liable for back pay. 4/

Period of Back Pay

As to the period for which back pay may be recoverable, Title VII does not provide a statute of limitations in actions such as the instant case which were determined by the EEOC before March 24, 1972. However, on March 24, 1972, Title VII was amended by Congress

to provide that as to all cases pending before the EEOC on that date or filed thereafter, back pay liability accrues from a date no more than two years prior to the filing of the charge with the EEOC. Pub. L. 92-261, §§ 4(a), 14, codified at 42 U.S.C. §2000e-5(g). While the case here was determined by the EEOC prior to March 24, 1972, this amendment has a bearing on Congressional intent as to the limitation to be imposed in granting back pay awards and will be applied here. A person entitled to back pay may recover proven damages beginning on the date the discrimination occurred or beginning on October 15, 1968, which is two years prior to the filing of the complaint with EEOC by the Rios plaintiffs, whichever date is later. See Laffey v. Northwest Airlines, Inc., supra at 1390.

The termination date for computation of back pay awards is June 21, 1973, the date of this Court's order granting a permanent injunction. See Johnson v. Goodyear Tire & Rubber Co., supra at 1379.

Plan for Awarding Back Pay

A claimant is entitled to compensation for wages lost if he files his claim on or before December 31, 1975 and proves the following:

(1) He applied in writing for membership in Local 638's A Branch.

(2) He was discriminatorily denied admission to the A Branch after October 15, 1968. Discrimination as to a claimant for purposes of back pay will commence on the date

on which the next applicant for membership in the A Branch who does not qualify as a member of the plaintiff class was admitted to the A Branch. This discrimination for purposes of back pay awards will be deemed to continue until the date claimant was admitted to the A Branch or until June 21, 1973, whichever is earlier.

(3) At the time of his application, the claimant resided in a county within the jurisdiction of Local 638, and was qualified for admission under the standards used in the implementation of this Court's Order of June 21, 1971.

(4) The claimant proves monetary damages resulting from his denial of admission to the A Branch, less any other employment income or public assistance. Monetary damages will be computed on the basis of the average monthly wage paid to members who were admitted to the A Branch on or after October 15, 1968.

Payment by Local 638 of back pay will be made after determination of all claims. At that time, upon application of Local 638, for good cause shown, the Court will review the aggregate liability for back pay awards and its impact on the financial resources of the Union, and the Court may in its discretion make a pro rata reduction of each claimant's award or provide for payments in installments.

The plaintiffs, the EEOC and Local 638 are invited to suggest methods to efficiently administer this plan for making back pay awards.

Settle Order on Notice.

Dated: New York, N.Y.
June 27, 1975

DUDLEY B. BONSAL
U. S. D. J.

(Footnotes follow)

Footnotes:

1/ The classes are defined as: (a) "all Negro and Spanish Surnamed Americans residing in New York City and the Counties of Suffolk and Nassau in the State of New York now or at any time in the future who have the skills necessary to work as journeymen steamfitters" and (b) "all Negro and Spanish Sur-named Americans residing in New York City and the Counties of Suffolk and Nassau in the State of New York now or at any time in the future who are capable of learning such skills and who wish to obtain access to steamfitting work in New York City and said Counties." Rios v. Enterprise Association Steamfitters Local Union 638 of U.A., 54 F.R.D. 234, 257 (S.D.N.Y. 1971) (Tenney, J.).

2/ A branch members of Local 638 do mainly construction work, have greater job security, earn higher hourly pay and have greater opportunity for advancement than the members of the B Branch of Local 638, whose members work in shops and do repair work. Being a member of the A Branch is a substantial aid in obtaining a job as a construction steamfitter in the territorial jurisdiction of Local 638, i.e., New York County, The Bronx, Kings, Queens, Richmond, Nassau and Suffolk counties. United States v. Local 638, etc., 360 F.Supp. at 984-85.

3/ See discussion of the applicable statute of limitations, infra. United States v. Wood, Wire and Metal Lathers International Union, Local Union 46, 328 F.Supp. 429 (S.D.N.Y. 1971), which granted back pay to a broader group of plaintiffs than this Court finds appropriate, is distinguishable. Wood, Wire involved a contempt proceeding in connection with a Title VII action, which proceeding arose because the defendant union had repeatedly violated the parties' consent decree and this procedural context was significant to the Court's determination. Also, in Wood, Wire the union continuously operated a hiring hall which was contemplated in devising the consent decree and the back pay remedy for its violation. Finally, the period for which back pay was awarded was less than nine months.

4/ The decision herein is without prejudice to any claim a member of the plaintiff class may have against an employer (see Albemarle Paper Co. v. Moody, 43 U.S.L.W. 4880 (U.S. June 23, 1975). Neither HCA nor JAC is an employer, and no employers are parties to this action.

SJG:am

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A-777

GEORGE RIOS, et al.,

Plaintiffs,

-against-

71 Civ. 847 (DBB)

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,

Defendants.

U.S. DISTRICT COURT
FILED
OCT 9 1975
S.D. OF N.Y.

ORDER

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

-against-

71 Civ. 2877 (DBB)

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al.,

Defendants.

Plaintiffs having moved for an order awarding class-wide back pay to persons who were denied equal employment opportunities by defendants,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Plaintiffs' motions are granted to the extent that back pay will be paid by Enterprise Association Steamfitters Local 638 of U.A. (hereinafter "Local 638") to each member of the class who files a written claim for back pay with the Administrator, Vincent McDonnell, Esq. 127 E. 35th St. N.Y., N.Y. 10017 on or before ~~December 31~~ Feb. 1 31, 1976, or such later date as the Court may approve on the application of any party, and after filing such claim proves the following:

(a) He applied in writing for membership in Local 638's A Branch.

MICROFILM

(b) He was discriminatorily denied admission to the A Branch after October 15, 1968. Discrimination as to a claimant for purposes of back pay will commence on the date on which the next applicant for membership in the A Branch who does not qualify as a member of the plaintiff class was admitted to the A Branch. This discrimination for purposes of back pay awards will be deemed to continue until the date claimant was admitted to the A Branch or until June 21, 1973, whichever is earlier.

(c) At the time of his application the claimant resided in a county within the jurisdiction of Local 638.

(d) He was admitted to the A Branch under the provisions of this Court's Orders of April 16 , 1971, January 3 , 1972, or June 21, 1973, or is qualified to be admitted under this Court's Order of June 21, 1973.

(e) He sustained monetary damages resulting from his denial of admission to the A Branch. Monetary damages will be computed on the basis of the average monthly wage paid to members who were admitted to the A Branch on or after October 15, 1968, less any other employment income or public assistance which the individual received.

SJG:am

2. A person entitled to back pay may recover proven damages for the period beginning on the date the discrimination occurred or beginning on October 15, '08, whichever day is later, and terminating on the date the person was admitted to the A Branch, or June 21, 1973, whichever is earlier. A-779

3. Local 638 shall give notice of the terms of this Order to members of the class who may be entitled to back pay thereunder, as follows:

(a) Local 638 shall in writing inform each member of the class of whom it has a record, who at any time applied in writing for A Branch membership or was admitted to membership through orders of this Court, of the provisions of this Order. ~~Local 638 shall similarly inform all non-white members of its B Branch.~~

(b) Local 638 shall post a copy of this Order in a prominent place in the union's offices for the entire period during which claims may be filed.

~~(c) Local 638 shall place an advertisement~~ in the Amsterdam News and El Diario once each week, and on minority radio stations twice each week, for the entire period during which claims may be filed, setting forth the ~~provisions of this Order.~~

4. This Court reserves the right, after the determination of all claims, to make a pro rata reduction

SJG:am

of each claimant's award or provide for payments in installments.

5. In all other respects the motions are denied.

Dated: New York, New York

~~September 22~~ October 9, 1975

UNITED STATES DISTRICT JUDGE

GEORGE RIOS, et al.,

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al.,

Defendants.

71 Civ. 847
(D.B.B.)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al.,

Defendants.

71 Civ. 2877
(D.B.B.)

NOTICE OF APPEAL

Notice is hereby given that plaintiffs above named in 71 Civ. 847 hereby appeal to the United States Court of Appeals for the Second Circuit from each and every aspect of the Order entered in this action on the seventeenth day of October, 1975, ruling upon plaintiffs' motion for back pay, except insofar as said Order did award back pay.

Dated: New York, New York
November 17, 1975

/s/ Marilyn R. Walter

MARILYN R. WALTER
ROBERT P. ROBERTS
NATIONAL EMPLOYMENT LAW PROJECT, INC.
423 West 118th Street
New York, New York 10027

TUFO, JOHNSTON & ALLEGAERT
645 Madison Avenue
New York, New York 10022

Attorneys for Plaintiffs in
71 Civ. 847, George Rios et al.

TO: RICHARD BROOK, ESQ.
DELSON & GORDON
230 Park Avenue
New York, New York 10017

Attorneys for Enterprise Association Steamfitters' Local 638 of U.A. and Union Members of the Joint Steamfitting Apprenticeship Committee

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A-782

GEORGE RIOS, et al.,

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION OF STEAMFITTERS' LOCAL 638 OF U.A., et al.,

Defendants.

71 Civ. 847
(D.B.B.)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al.,

Defendants.

71 Civ. 2877
(D.B.B.)

NOTICE OF CROSS-APPEAL

Notice is hereby given that defendant Enterprise Association Steamfitters Local 638, one of the defendants, hereby cross-appeals to the United States Court of Appeals for the Second Circuit from each and every aspect of the Order entered in this action on October 9, 1975 (motion to amend or alter the judgment denied on November 21, 1975) ruling upon plaintiffs' motion for back pay.

Dated: New York, New York
November 28, 1975.

DELSON & GORDON
230 Park Avenue
New York, New York 10017
Attorneys for Defendant
Enterprise Association
Steamfitters Local 638

By Richard Brook
Richard Brook

JBH:n

70-1674

BY HAND

February 6, 1974

Honorable Dudley B. Bonsal
United States District Judge
United States Court House
Foley Square
New York, New York 10007

Re: United States v. Local 638, et al.
71 Civ. 2877 (DBB)

Dear Judge Bonsal:

Concerning the motion for back pay submitted by the plaintiffs in the Rios case under Notice dated February 2, 1974, the Government likewise believes that back pay is required in the instant case. See, Government's post-trial memorandum, dated February 13,1973, at pp. 42-3. Back pay is appropriate in Title VII cases even where the Government is the plaintiff. United States v. Georgia Power Co., 474 F.2d 906 (5th Cir. 1973); United States v. Bricklayers Local No. 1, ____ F.Supp. ____, 5 E.P.D. ¶ 8480 (W.D. Tenn. 1973).

In back pay cases courts have either specified the formula for recovery prior to sending the case to a Special Master for hearings, see United States v. Wood, Wire & Metal Lathers International Union, Local Union No. 46, 328 F.Supp. 429, 443-5 (S.D.N.Y. 1971), or have left it to the Special Master to formulate appropriate criteria for recovery, see United States v. Bricklayers Local No. 1, supra.

We can certainly envision a number of difficulties in defining eligibility for recovery and the period for which such a recovery will be allowed. Therefore, although we agree generally with the categorizations set forth in the memorandum filed by the individual plaintiffs in support of the instant motion, we feel that it would be wise for the Court to schedule a conference concerning this matter. At such a conference, we would hope general guidelines could be agreed upon by the parties, or established by the Court, which would then be further refined by the Special Master after he has commenced his investigations.

JBH:n
70-1674 BY HAND

Honorable Dudley B. Bonsal
United States District Judge

February 6, 1974
Page 2.

We have submitted this letter in lieu of motion papers to avoid burdening the Court. We reserve the right to file a memorandum, if necessary, should the defendants' submissions require any reply.

Respectfully yours,

PAUL J. CURRAN
United States Attorney

By:
JOEL B. HARRIS
Assistant United States Attorney
Chief, Civil Rights Unit
Telephone No.: (212) 264-6322

cc: Nelson & Gordon, Esqs.
230 Park Avenue
New York, New York 10017

Breed, Abbott & Morgan, Esqs.
One Chase Manhattan Plaza
New York, New York 10005

Dennis R. Yeager, Esq.
423 West 118th Street
New York, New York 10027

SJG:am
70-1674

September 30, 1975

Honorable Dudley B. Bonsal
United States District Judge
United States Courthouse
Foley Square
~~New York,~~ New York 10007

Re: Rios et al. and EEOC v. Enterprise Assoc. Steamfitters Local 638, et al.
71 Civ. 847 and 2877 (DBB)

Dear Judge Bonsal:

We hereby submit our comments and objections to the counter-order on back pay submitted by defendant Local 638 by notice dated September 22, 1975. We adhere to the correctness of the order submitted on behalf of both plaintiffs by notice dated September 12, 1975, and believe it fully conforms to the intent of the court. However we wish to emphasize the following principal objections to the revisions in the union's proposal:

1. We understand the court's opinion dated June 27, 1975 to require only the filing of claims for back pay by December 31, 1975. Thus the plaintiffs' proposed order, par. 1, provided that back pay will be paid to each class member who "files a written claim for back pay . . . and after filing such claim proves the following . . . ." The union's proposed counter-order would award back pay only to those who "file a written claim . . . with proof of the following . . . ." The difference is crucial to proper consideration of claims. Requiring a claimant to produce his proof in advance with his initial claim would be an unreasonable burden on the members of the class, and we believe would deny them due process. Some of the proof, indeed, may be solely in the union's records. We believe

the court fully envisioned subsequent hearings before a special master at which claims would be established. The plaintiffs' proposal should be adopted by the court.

2. Plaintiffs' proposed order allowed claims to be filed on or before December 31, 1975, "or such later date as the Court may approve on the application of any party." This was deleted in the union's proposal. It is similar to provisions in the court's June 21, 1973 decree regarding the interim affirmative action program and, given the problems in giving notice and processing applications which may occur, merely makes clear the normal prerogatives of the court and the parties. As an order awarding back pay has not yet been settled, the period of 90 days or less remaining until the December 31, 1975 date may well be unrealistic.

3. In paragraph 1(d) of the plaintiffs' proposed order, we set forth that back pay could be awarded to anyone who "was admitted to the A Branch under the provisions of this Court's Orders of April 16, 1971, January 3, 1972, or June 21, 1973, or is qualified to be admitted under this Court's Order of June 21, 1973." The union's proposal, in par.1(c), merely allows back pay for those who can show that at the time of application they are "qualified for admission under the standards used in this Court's Order of June 21, 1973." The court's June 27, 1975 back pay opinion, slip. op. at p.3, dealt with all of those who were discriminatorily denied admission after October 15, 1968. We feel that those victims of discriminatory practices who were admitted by the preliminary injunctions of April 16, 1971 and January 3, 1972 are clearly as entitled to back pay as those who were later admitted. As they were found to be qualified by the court on the basis of testimony then presented, and based on admission standards then in effect, they certainly should not have to undergo a new test now. There is no rational basis for a distinction between admission and back pay qualifications for those individuals. Further, if a member of the class satisfies all the requirements for back pay but has not yet taken the test or been admitted because of the staggered yearly goal set by the court, he too should be eligible under the order which we submitted.

SJC:am
70-1674

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4. The plaintiffs' proposed order, par.1(e), allowed a deduction from the back pay award for "employment income or public assistance which the individual received." The union's proposed order adds the words "or would have received with due diligence." If such language is included at all, the burden of showing that additional income could have been obtained should clearly rest with the defendants. Further, there is no obligation to seek public assistance. The union should not be able to diminish its liability by creating such an obligation, or attempting to shift the damages to the public treasury.

5. The notice provisions contained in paragraph 3 of the plaintiffs' proposed order have been almost completely eliminated in the union's proposal. Just as the union was required to advertise its new admission requirements, so too should it be required to give notice here. This is essential to the full enjoyment of rights by the members of the class. The cost of proper notice should be borne by the union.

The above comments are submitted on behalf of the plaintiffs' in both of the combined actions before the court.

Very truly yours,

PAUL J. CURRAN
United States Attorney

By: /s/
STEVEN J. GLASSMAN
Assistant United States Attorney
Telephone: (212) 791-1968

cc: Marilyn R. Walter, Esq.
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A-788

October 7, 1975

Honorable Dudley B. Bonsal
United States District Judge
United States Courthouse
Foley Square
New York, New York 10007

Re: Rios et al. and EEOC v. Enterprise Assoc. Steamfitters Local 638, et al.
71 Civ. 847 and 2877 (DBB)

Dear Judge Bonsal:

This is in response to Mr. Glassman's letter to you concerning the differences between the proposed Order submitted by his office and the proposed Order submitted by this office in behalf of the Union. While Mr. Glassman did accurately describe the differences between the two Orders, it should be noted that the proposed Order which this office submitted did not deviate from your decision although it did differ from Mr. Glassman's proposal.

As to Items 1 and 2 of Mr. Glassman's letter, considering the extensive period of time in which plaintiffs have had to prepare their back-pay claims, the December 31, 1975 deadline should be strictly enforced. While the entire claim does not have to be proven at the time the claim is made, the procedure adopted should be such as to minimize the amount of attorneys' time spent on litigating these case-by-case claims.

As to Item 3, the decision of the Court should be adhered to, including the requirement that claimants show

proof that they have met the eligibility criteria established by this Court.

As to Item 4, the statute, and this Court's decision, contemplate compensation for actual loss which includes only that loss which a claimant could not with due diligence have mitigated.

As to Item 5 the notice requirements of plaintiffs' proposal are burdensome, costly and unnecessary.

Very truly yours,

Richard Brook

RB:ds

cc: Steven J. Glassman, Esq.
Marilyn R. Walter, Esq.
Dennis R. Yeager, Esq.
Thomas A. Shaw, Jr., Esq.

DELSON & GORDON
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[illegible] 6-9021
CABLE "DELGOR"

A-790

July 24, 1973

Hon. Dudley B. Bonsal
United States District Judge
Southern District of New York
United States Courthouse
Foley Square
New York, N. Y. 10007

Re: Rios et al. v. Enterprise Association Steamfitters Local 638 et al., 71 Civ. 847; United States v. Enterprise Association Steamfitters Local 638 et al., 71 Civ. 2877

Dear Judge Bonsal:

On behalf of the Joint Apprenticeship Committee, I am enclosing herewith two lists, the first containing 74 pages, and the second, consisting of 15 pages. The longer list relates to all applicants who filed applications for apprenticeships and the column headings which apply to each applicant are self-explanatory.

The first column sets forth the application number; the second, his social security number; the third, the name of the applicant; the fourth, the applicant's score by one of the two interviewers (indicated by the column heading "Score 1". The column "Score 2" is the score accorded the applicant by the second interviewer. The column headed "Average" is the average score taking into consideration Score 1 and Score 2. The column headed "Aptitude" indicates whether the individual who took the aptitude test scored high, (H), medium (M), or low (L). The eighth column indicates the race of the applicant.

All of the applicants through page 54 starting with "M. Beullin" took the aptitude test and were interviewed. Beginning with "J. Arnaiz" at page 54 and going through "M. Tribby" at page 74, and the listing of the applicants who took the aptitude test but failed or refused to be interviewed. Beginning with "Jones" at page 54 to

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-2-

the odd are applicants who failed to take the aptitude test and were therefore not invited to be interviewed. Finally on page 74 is a summary breaking the results of the aptitude tests.

The applicants who took the aptitude tests and who also were interviewed are listed in the descending order of their scores from page 1 through "H. Scully" on page 54. Those who only took the aptitude test are also listed beginning with page 54 with the "Highs" (H) heading; the list followed by the "Mediums" (M) and ending with the "Lows" (L) on page 58.

The shorter list furnishes the same information for the minority applicants and includes blacks, Spanish surnamed individuals, orientals and American Indians.

It is my understanding that a meeting was held this day by Mr. McDonnell and the Joint Apprenticeship Committee in order to expedite the formation of the apprenticeship classes in accordance with your Order and Judgment.

Respectfully yours,

EF:IL
Enc.

Ernest Fleischman

c.c. Vincent D. McDonnell, Esq.
127 East 59th St.
New York, N. Y.

Joel B. Harris, Esq.
Assistant U. S. Attorney

Dennis R. Yerkes, Esq.
National Employment Law Project

Cheryl Adelman, Esq.
Heard, Abbott & Morgan

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ACC. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	ADMITTANCE			RACE
2410	97-33-2305	A. KLANSKY	100	100	100.0	H			WHITE
514	122-46-4332	T. LEAUY	100	100	100.0	H			WHITE
546	66-44-5214	R. HUHIL	100	100	100.0	H			WHITE
43	122-42-8926	R. GRADY JR	100	100	100.0	H			WHITE
76	68-44-9323	C. KUEBEL	100	100	100.0	H			WHITE
60	71-36-6773	T. SCHAEFER	100	100	100.0	H			WHITE
	TOTAL	6				6	0	0	6
2389	62-40-3227	J. MCCARTHY	99	99	99.0	H			WHITE
21	78-46-8574	E. COCHRAN	98	100	99.0		M		WHITE
	TOTAL	2				1	1	0	2
81	110-42-7547	D. MILHAVEN	98	94	96.0	H			WHITE
28	92-40-4743	T. MCGUILLEN	96	98	96.0	H			WHITE
	TOTAL	2				2	0	0	2
1010	131-36-2099	P. GRAFF	96	96	96.0	H			WHITE
592	83-46-6732	J. CLARK	96	96	96.0	H			WHITE
679	122-42-3622	J. GUNN JR	96	96	96.0	H			WHITE
101	103-46-3729	G. CULLEN	96	*95	96.0			L	WHITE
	TOTAL	4				3	0	1	4
1975	50-42-9402	B. MITCHELL	96	95	95.5	H			WHITE
541	81-44-0736	J. SZITAR	95	96	95.5	H			WHITE
2277	56-44-2744	T. MCCANN	95	96	95.5	H			WHITE
107	116-42-3021	J. HILLER	95	96	95.5	H			WHITE
25	101-42-2771	R. STEWART JR	97	94	95.5	H			WHITE
	TOTAL	5				5	0	0	5
139	78-36-7853	E. MAXWELL	97	93	95.0	H			WHITE
	TOTAL	1				1	0	0	1

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APP. #	S.S. NO.	NAME	SCORE 1	SCORE 2	AVERAGE	APPTITUDE	RACE
2165	105-46-4217	C. TORTORA	93	96	94.5	H	WHITE
1763	71-42-4417	K. MOSIER	95	94	94.5	H	WHITE
593	131-36-9264	R. SUTTON	96	93	94.5	H	WHITE
518	113-46-6036	J. TRAVERS	96	93	94.5	H	WHITE
1209	127-46-4363	E. DILLON	95	94	94.5	H	WHITE
	TOTAL 5					5 0 0	5
1741	61-38-1086	J. WOLFE	95	93	94.0	H	WHITE
916	53-44-7592	G. ROBINSON	92	96	94.0	H	WHITE
1034	90-42-5107	J. CULLINANE	99	89	94.0	H	WHITE
120	96-46-7494	G. STARK	93	95	94.0	H	WHITE
61	68-44-9925	K. GULDE	94	94	94.0	H	WHITE
631	55-44-9803	R. GILBERT	94	94	94.0	H	WHITE
1723	90-40-8132	S. CARNEY	94	94	94.0	M	WHITE
	TOTAL 7					6 1 0	7
322	70-44-4454	J. MEDINA	91	96	93.5	H	SPANISH
1013	145-38-0543	A. RYAN	93	94	93.5	H	WHITE
837	127-36-3094	P. KOSSICK	94	93	93.5	H	WHITE
303	121-44-1740	R. MAYER	93	94	93.5	H	WHITE
2417	120-38-5634	J. KEANE	94	93	93.5	H	WHITE
46	51-40-2223	J. CARSON	94	93	93.5	H	WHITE
201	61-44-1650	D. BRADY	92	95	93.5	H	WHITE
152	94-40-4324	E. HANNIGAN	89	98	93.5	H	WHITE
743	132-40-4309	D. NICKOLA	94	93	93.5	H	WHITE
	TOTAL 9					9 0 0	9
1428	57-42-1417	G. INNES	90	96	93.0	H	WHITE
93	127-36-1790	P. COLLINS	93	93	93.0	H	WHITE
1061	92-38-7907	J. DILLIG	93	93	93.0	H	WHITE

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE			RACE
1042	96-46-8150	E. HURANSKI	93	93	93.0	H			WHITE
521	87-30-9014	W. DESCOURSEY	93	93	93.0	H			WHITE
552	126-42-8043	S. COUMBELL	94	92	93.0	H			WHITE
1603	65-44-5576	F. HEIDINGER	96	90	93.0	H			WHITE
179	71-42-5674	K. FINNIGAN	93	93	93.0	H			WHITE
	TOTAL	8				8	0	0	8
2162	122-36-9420	S. LYNCH	91	94	92.5	H			WHITE
1415	125-42-4379	K. SEGLEY	95	90	92.5	H			WHITE
1573	124-42-7638	J. GOLE	94	91	92.5	H			WHITE
190	61-44-3518	T. OKEEFE	91	94	92.5	H			WHITE
109	55-44-1591	J. SOLGER	94	91	92.5		M		WHITE
	TOTAL	5				4	1	0	5
352	56-40-5521	B. BRYANT	93	91	92.0	H			WHITE
226	106-44-9724	S. MEDINA	92	92	92.0	H			SPANISH
1515	126-44-8500	T. SHORT	92	92	92.0	H			WHITE
2234	71-42-1772	J. FRANELL	92	92	92.0	H			NEGRO
1342	97-36-2607	A. CHIAREL	93	91	92.0	H			WHITE
734	90-46-7755	T. GUEDAIN	86	98	92.0	H			WHITE
696	127-40-4318	R. COLEMAN	90	94	92.0	H			WHITE
505	62-44-9544	P. LIPTAK	92	92	92.0	H			WHITE
1795	116-38-9537	R. MAX	90	94	92.0	H			WHITE
869	77-42-7348	D. MEAPHY	95	89	92.0	H			WHITE
267	50-30-9147	H. REISCO	92	92	92.0	H			WHITE
	TOTAL	11				11	0	0	11
2300	37-36-7336	K. POWELL	91	92	91.5	H			NEGRO
1926	95-36-3032	K. BARRY	98	85	91.5	H			WHITE
997	131-40-8631	R. MCGINNIS	91	92	91.5	H			WHITE

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPTITUDE			RACE
2176	113-44-8872	F. ANDERSON JR	93	90	91.5	H			WHITE
177	127-40-2723	W. DIETZ	87	96	91.5	H			WHITE
855	104-40-8425	T. BOURGAL	91	92	91.5		M		WHITE
	TOTAL 6					5	1	0	6
2342	116-35-3279	T. CALLAN	91	91	91.0	H			WHITE
1343	69-44-4023	M. PEPPER	90	92	91.0	H			WHITE
1258	112-38-8205	R. HUSCHER	91	91	91.0	H			WHITE
1452	77-43-4713	R. PETERS	90	92	91.0	H			WHITE
1191	139-52-2577	J. MARTORELLI	89	93	91.0	H			WHITE
115	129-42-2138	T. MacSHAHAN	93	89	91.0	H			WHITE
1423	123-43-6959	L. MINIACL	92	90	91.0	H			WHITE
575	114-42-4430	E. LANIGAN JR	91	91	91.0	H			WHITE
624	65-36-4252	J. DAMICO	90	92	91.0	H			WHITE
263	126-38-3456	L. DEREVENSKY	91	91	91.0	H			WHITE
622	134-38-3440	R. WALSH	94	88	91.0	H			WHITE
752	55-46-5220	P. SIEGEL	92	90	91.0	H			WHITE
1969	62-38-3234	C. KKAS	95	87	91.0		M		WHITE
442	81-46-3910	K. CAHILL	91	91	91.0			L	WHITE
	TOTAL 14					12	1	1	14
2022	112-44-8966	E. LYMBANO	85	96	90.5	H			NEGRO
1114	100-38-6364	K. HAYES	95	86	90.5	H			WHITE
754	55-42-5555	L. BORIS	90	91	90.5	H			WHITE
791	57-42-8940	D. DeLSITO	90	91	90.5	H			WHITE
53	83-48-3424	E. SMITH JR	89	92	90.5	H			WHITE
837	52-44-7432	P. FITZPATRICK	87	94	90.5	H			WHITE
640	62-43-9712	K. HAYES	89	92	90.5	H			WHITE
1803	126-34-0910	F. COLLINS	90	91	90.5		M		WHITE
831	53-46-2315	J. DOURGAL	89	92	90.5		M		WHITE
	TOTAL 9					7	2	0	9

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APPRENTICESHIP PROGRAM

APP. #	S.S. NO.	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE		RACE
2415	51-42-5735	M. CAVANAGH	92	88	90.0	H		WHITE
731	75-40-7128	M. FORTUNE	88	92	90.0	H		WHITE
2108	570-72-6451	W. GAENS	90	90	90.0	H		WHITE
2268	84-40-3164	W. DAMORLA	90	90	90.0	H		WHITE
2252	102-36-3759	R. PUTOCKI	90	90	90.0	H		WHITE
759	83-46-3715	K. MCGOWAN	90	90	90.0	H		WHITE
1429	96-40-7361	T. SCHAPER	90	90	90.0	H		WHITE
392	107-36-3375	R. SCHMIT	89	91	90.0	H		WHITE
173	126-44-8526	J. CAHILL	92	88	90.0	H		WHITE
2204	95-42-9043	D. SULLIVAN	93	87	90.0	H		WHITE
871	59-44-5911	M. HOPPER	88	92	90.0	H		WHITE
2112	95-42-8457	P. LOARY	90	90	90.0	H		WHITE
1638	140-36-3603	R. ROLLO	90	90	90.0	H		WHITE
659	93-40-4099	M. KEENAN	89	91	90.0	H		WHITE
77	52-46-3321	P. CUMMINGS	90	90	90.0	H		WHITE
364	69-42-3022	A. MCBRIDE	90	90	90.0	H		WHITE
517	94-40-8984	D. SMITH	90	90	90.0	H		WHITE
884	83-46-7751	T. BURNS JR	90	90	90.0	H		WHITE
1461	101-46-5515	A. KUPPERT	90	90	90.0	H		WHITE
1109	94-46-8125	J. ZYMECK	88	92	90.0	H		WHITE
143	124-46-4115	C. PECO	88	92	90.0		L	WHITE
	TOTAL	21				20	0 1	21
2128	9[illegible]-44-4967	R. KISI	86	91	89.5	H		WHITE
1446	126-44-8226	K. BOOK	94	85	89.5	H		WHITE
1536	54-38-2937	T. DELANEY	87	92	89.5	H		WHITE
341	73-40-5621	G. MERRITT	92	87	89.5	H		WHITE
1726	114-46-3130	T. STEFFENS	89	90	89.5	H		WHITE
1554	125-40-8188	J. LOTZ	89	90	89.5	H		WHITE
1746	105-40-3159	K. LUEBKE	84	95	89.5	H		WHITE

APPL. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE	RACE
636	66-38-0641	R. PENNY					WHITE
1017	100-44-9220	P. MCNAUGHTON					WHITE
	TOTAL	579					

81 9 14 475 579

FINAL TOTAL	1,959	HIGH	MED	LOW	*	No Show	FINAL TOTAL
		1224	147	111	2	475	1,959

* Indicates applicants did not complete aptitude test - due to hand injury

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPEARED			RACE
322	70-44-4458	J. MEDINA	91	96	93.5	H			SPANISH
	TOTAL 1					1	0	0	1
226	106-44-9724	S. MEDINA	92	92	92.0	H			SPANISH
2294	71-42-1772	J. FENNELL	92	92	92.0	H			NEGRO
	TOTAL 2					2	0	0	2
2300	37-36-7388	R. POWELL	91	92	91.5	H			NEGRO
	TOTAL 1					1	0	0	1
2622	112-44-6066	E. LYBRAND	85	96	90.5	H			NEGRO
	TOTAL 1					1	0	0	1
464	62-38-7157	G. TAYLOR	87	91	89.0	H			NEGRO
2163	51-49-8797	M. SANTIAGO	89	89	89.0			L	SPANISH
	TOTAL 2					1	0	1	2
2671	580- 3912	W. PEETS	90	87	88.5	H			NEGRO
44	1[illegible]-36-5412	R. MORGAN	85	92	88.5	H			NEGRO
368	247-50-3331	E. ROBINSON	88	89	88.5	H			NEGRO
	TOTAL 3					3	0	0	3
331	119-34-2375	J. FIGUEROA	87	88	87.5	H			SPANISH
	TOTAL 1					1	0	0	1
291	69-46-4870	A. STEWART	88	86	87.0	H			NEGRO
	TOTAL 1					1	0	0	1
444	121-42-4341	V. HARRISON	88	85	86.5	H			NEGRO
493	110-42-5671	J. CHOU	88	85	86.5	H			ORIENTAL

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APPL. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE			RACE
266	103-36-4633	C. PADILLA	87	86	86.5			L	SPANISH
	TOTAL	3				2	0	1	3
510	129-48-0368	S. LEE	86	86	86.0	H			ORIENTAL
	TOTAL	1				1	0	0	1
2293	71-48-9992	C. HARBIN	76	95	85.5	H			NEGRO
	TOTAL	1				1	0	0	1
295	129-48-4902	L. MUI	88	82	85.0	H			ORIENTAL
402	127-40-2622	A. MONTEIRO	83	87	85.0		M		NEGRO
	TOTAL	2				1	1	0	2
2310	134-36-0369	R. FELIX	86	83	84.5	H			NEGRO
351	130-40-7479	A. FUENTES	85	84	84.5			L	SPANISH
	TOTAL	2				1	0	1	2
2019	05-42-45[illegible]	J. WISHEN	88	80	84.0	H			NEGRO
309	103-46-3474	R. MOLINA	86	82	84.0	H			SPANISH
395	77-36-0060	H. HOPKINS	84	84	84.0	H			NEGRO
212	119-40-5869	S. BERTON	85	83	84.0		M		NEGRO
	TOTAL	4				3	1	0	4
460	114-42-3607	S. PRICE	88	79	83.5	H			NEGRO
	TOTAL	1				1	0	0	1
2311	114-44-3291	E. KING	86	79	82.5	H			NEGRO
	TOTAL	1				1	0	0	1
2305	84-42-6007	R. LANGHORNE	83	81	82.0		M		NEGRO

APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPT	ITEM	RACE
330	69-38-5760	K. BISHOP	84	80	82.0		L	NEGRO
	TOTAL 2					0 1 1		2
240	97-46-2351	G. WILEY	78	85	81.5	H		NEGRO
1103	93-42-2078	D. FLEMING	82	81	81.5	H		NEGRO
363	58-40-0969	B. DALY	82	81	81.5	H		NEGRO
	TOTAL 3					3 0 0		3
1210	107-42-3466	D. PITTMAN	84	78	81.0	H		NEGRO
2157	82-30-7434	B. WATSON	82	80	81.0	H		ORIENTAL
	TOTAL 2					2 0 0		2
229	[illegible]-58-5629	W. SHEPPARD	81	80	80.5	H		NEGRO
237	[illegible]-48-5485	H. NURSE	83	78	80.5	H		NEGRO
495	81-42-1729	C. LUCENA	78	83	80.5		L	SPANISH
	TOTAL 3					2 0 1		3
259	133-42-3467	G. LYNN	80	80	80.0	H		NEGRO
416	125-38-0230	E. RICCIARDELLI	80	80	80.0		M	SPANISH
2302	249-76-4344	S. BROUGHTON	82	78	80.0		M	NEGRO
	TOTAL 3					1 2 0		3
507	58-46-8731	J. DONG	80	79	79.5	H		ORIENTAL
423	71-36-4612	K. SPENCER	79	80	79.5		M	NEGRO
123	102-40-8143	L. HILL	76	83	79.5		M	NEGRO
	TOTAL 3					1 2 0		3
477	75-50-0471	N. WALKES	78	79	78.5	H		NEGRO
459	93-42-0902	E. WILLIAM S	79	78	78.5		M	NEGRO
	TOTAL 2					1 1 0		2

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPTITUDE			RACE
2295	60-44-7436	G. GENDREY	77	79	78.0	H			NEGRO
492	72-40-6577	R. WALKER	77	79	78.0	H			NEGRO
1559	103-40-0623	A. DEJESUS	76	80	78.0	H			SPANISH
246	132-36-1393	F. DELGADO	78	78	78.0	H			SPANISH
	TOTAL 4					4	0	0	4
323	60-40-2121	R. LLAMAS	79	76	77.5	H			SPANISH
406	123-40-6355	W. BROOKS	84	71	77.5	H			NEGRO
256	133-40-3041	F. FERNANDEZ	78	77	77.5		M		SPANISH
948	71-40-5467	V. SUTHERLAND	77	78	77.5			L	NEGRO
	TOTAL 4					2	1	1	4
2611	122-42-8067	D. FLOURNOY	78	76	77.0		M		NEGRO
293	244-88-5332	J. EDWARDS	76	78	77.0		M		NEGRO
491	133-36-1267	A. PATTON	76	78	77.0			L	NEGRO
	TOTAL 3					0	2	1	3
281	70-40-4333	D. CHAMBERLAIN JR	80	73	76.5	H			NEGRO
217	133-42-6697	R. BURTON	77	76	76.5		M		NEGRO
400	421-58-8656	J. HARRIS	75	78	76.5			L	NEGRO
	TOTAL 3					1	1	1	3
463	123-42-7364	F. AUBREY	72	80	76.0	H			NEGRO
2612	251-80-4381	H. GETER	80	72	76.0	H			NEGRO
232	77-40-5420	D. SMITH	75	77	76.0	H			NEGRO
2292	243-92-1338	W. FENNELL	73	79	76.0		M		NEGRO
2307	139-40-1027	G. CHRISTOPHER	74	78	76.0			L	NEGRO
	TOTAL 5					3	1	1	5
473	110-40-5999	Q. ABDUL ALEIN	76	75	75.5	H			NEGRO

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APPL. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE			RACE
298	58-40-1005	T. HADLEY	79	72	75.5	H			NEGRO
642	111-46-4225	J. ROUGIER	81	70	75.5			L	NEGRO
	TOTAL	3				2	0	1	3
234	129-42-3475	A. QUAVE	75	75	75.0	H			NEGRO
243	103-38-4633	J. BECKLES	73	77	75.0	H			NEGRO
	TOTAL	2				2	0	0	2
483	383-56-4046	T. WONG JR	76	73	74.5	H			ORIENTAL
214	133-42-4115	W. MALDONADO JR	75	74	74.5	H			SPANISH
625	51-44-7855	J. VILLAR	73	76	74.5	H			SPANISH
220	241-90-1282	E. RODGERS	73	76	74.5	H			NEGRO
	TOTAL	4				4	0	0	4
457	121-40-2309	K. WILSON	73	75	74.0	H			NEGRO
351	77-38-2480	M. NASTASUK	70	78	74.0	H			ORIENTAL
1590	58-42-2119	R. SANTIAGO	70	78	74.0			L	SPANISH
	TOTAL	3				2	0	1	3
2614	255-74-9247	M. BISO	74	73	73.5	H			NEGRO
511	65-44-7912	H. GUAN	73	74	73.5	H			ORIENTAL
509	65-44-5297	B. YUEN	69	78	73.5	H			ORIENTAL
242	580-10-4625	A. WILLIAMS	73	74	73.5	H			NEGRO
2037	109-40-4303	E. LEIGH	72	75	73.5		M		NEGRO
	TOTAL	5				4	1	0	5
292	255-86-4460	W. BLACKWELL	73	73	73.0	H			NEGRO
2236	125-40-4589	R. CHAVOUS	76	70	73.0	H			NEGRO
304	53-46-0995	A. CHIN	76	70	73.0	H			ORIENTAL
241	580-09-3953	G. WILLIAMS	77	69	73.0	H			NEGRO

APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE			RACE
	TOTAL	4				4	0	0	4
426	226-72-3602	T. SMITH	73	72	72.5	H			NEGRO
2209	584-56-4460	C. CURET	81	64	72.5	H			SPANISH
247	114-40-3942	J. LOPEZ	69	76	72.5	H			NEGRO
2260	89-48-6775	R. CHARLOCK	73	72	72.5		M		ANER INDIAN
	TOTAL	4				3	1	0	4
475	130-42-7929	A. SANTIAGO	70	74	72.0	H			SPANISH
362	56-40-3566	S. MILLS	70	74	72.0	H			NEGRO
474	127-42-4559	C. DRAYTON	71	73	72.0	H			NEGRO
244	237-72-3795	W. BOSTON	70	74	72.0	H			NEGRO
	TOTAL	4				4	0	0	4
272	66-36-0429	M. CAMACHO	77	66	71.5	H			SPANISH
501	127-42-6294	W. LEE	72	71	71.5	H			ORIENTAL
370	131-36-9574	J. CRUMP	71	72	71.5	H			NEGRO
	TOTAL	3				3	0	0	3
216	106-44-6959	G. RAGIN	70	72	71.0	H			NEGRO
248	248-86-0379	E. MYERS	74	68	71.0	H			NEGRO
252	236-52-6467	E. MULLUMAN	78	64	71.0			L	NEGRO
2518	111-44-4278	A. VAUGHAN	71	71	71.0			L	NEGRO
320	70-40-6151	V. BATISTA	73	69	71.0			L	SPANISH
	TOTAL	5				2	0	3	5
295	120-36-8769	S. CHIN	76	65	70.5	H			ORIENTAL
2296	114-36-0033	A. PARKS	70	71	70.5				NEGRO *
	TOTAL	2				1	0	0	1 2

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE			RACE
344	92-42-0617	R. IGLESIA	79	61	70.0	H			SPANISH
236	50-44-4129	M. NICHOLS JR	68	72	70.0	H			NEGRO
1957	50-46-2176	P. SOCORIK	71	69	70.0	H			AMER INDIAN
380	249-02-5903	N. WASHINGTON	69	71	70.0		M		NEGRO
	TOTAL	4				3	1	0	4
453	114-42-7059	R. WHITE	66	72	69.0	H			NEGRO
	TOTAL	1				1	0	0	1
2547	70-40-3225	J. ASH	64	73	68.5	H			NEGRO
258	52-44-8106	G. LIU	67	70	68.5	H			ORIENTAL
299	61-42-1668	C. GOODALL	70	67	68.5	H			NEGRO
2283	60-44-6544	F. FISHER	80	57	68.5		M		NEGRO
2035	64-46-2560	R. MONTESINOS	69	68	68.5			L	SPANISH
	TOTAL	5				3	1	1	5
337	102-40-6922	H. GONZALEZ	68	68	68.0			L	SPANISH
	TOTAL	1				0	0	1	1
489	134-38-9790	R. GILLIARD	68	67	67.5	H			NEGRO
1083	79-44-2837	S. MANTEIGA	64	71	67.5	H			SPANISH
403	51-59-3659	R. FREDERICK	81	54	67.5	H			NEGRO
2283	68-42-2987	M. SIMMS C/O SALICRUP	69	66	67.5	H			NEGRO
1929	61-46-9060	R. VALLES	70	65	67.5			L	SPANISH
	TOTAL	5				4	0	1	5
253	244-82-7445	R. ROSS	69	65	67.0	H			NEGRO
	TOTAL	1				1	0	0	1
215	54-48-1664	J. MELO	61	72	66.5	H			SPANISH

APPRENTICESHIP PROGRAM

APP. #	SOC. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPTITUDE			RACE
898	126-64-0257	R. FUDT	68	63	65.5	H			SPANISH
213	552-80-6052	F. KIMS	66	67	65.5	H			NEGRO
2304	112-44-3807	D. JORDAN	71	62	66.5	H			NEGRO
264	106-44-4956	J. FERNANDEZ	66	67	66.5	H			SPANISH
	TOTAL 5					5	0	0	5
2100	126-44-4658	M. DAVILA	66	65	65.5	H			SPANISH
	TOTAL 1					1	0	0	1
497	104-40-4266	P. JESSIE	65	65	65.0			L	NEGRO
	TOTAL 1					0	0	1	1
305	550-84-2917	N. DONG	62	66	64.0	H			ORIENTAL
	TOTAL 1					1	0	0	1
210	416-70-8690	S. MCLEMORE	64	63	63.5	H			NEGRO
	TOTAL 1					1	0	0	1
2287	112-40-1364	O. NURSE	50	74	62.0	H			NEGRO
	TOTAL 1					1	0	0	1
229	93-46-4536	F. GRIMES	58	65	61.5	H			NEGRO
2624	62-30-9162	J. ROBINSON	58	65	61.5		M		NEGRO
	TOTAL 2					1	1	0	2
245	244-82-6908	C. DILLAHUNT	57	63	60.0	H			NEGRO
	TOTAL 1					1	0	0	1
2604	53-40-5094	L. BRITT	57	61	59.0	H			NEGRO
	TOTAL 1					1	0	0	1

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APP. #	S.S. NO.	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE			RACE
324	58-42-0553	F. DELGADO JR	58	59	56.5			L	SPANISH
	TOTAL 1					0	0	1	1
225	106-40-5200	C. HICKMAN	62	54	58.0	H			NEGRO
	TOTAL 1					1	0	0	1
506	105-42-4931	Y. CHIN	62	50	56.0	H			ORIENTAL
	TOTAL 1					1	0	0	1
258	58-42-0369	C. WILLIAMS	54	57	55.5	H			NEGRO
	TOTAL 1					1	0	0	1
220	76-42-0683	E. FRANCIS	55	52	53.5			L	NEGRO
	TOTAL 1					0	0	1	1
300	107-40-6012	M. LECOQ	56	50	53.0			L	NEGRO
1049	62-44-2672	M. MITCHELL	53	53	53.0			L	NEGRO
	TOTAL 2					0	0	2	2
2247	70-40-3590	D. NEWELL				H			NEGRO
314	69-44-1482	C. PLUMMER				H			NEGRO
2301	83-42-2973	K. MURRY				H			NEGRO
472	92-40-5985	X. VAUGHAN C/O HOWELL				H			NEGRO
2312	56-42-2346	E. GADDY				H			NEGRO
2202	92-40-3516	P. GONZALEZ				H			SPANISH
2303	69-44-3006	C. GOODMAN				H			NEGRO
231	257-92-0321	E. COLEY				H			NEGRO
503	51-38-4514	J. LEE				H			ORIENTAL
2314	133-42-3804	E. HARRISON				H			NEGRO
260	46-48-5161	A. KNIGHT				H			NEGRO

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPTITUDE	RACE
2315	422-74-4493	O. LEWIS				H	NEGRO
2313	133-34-0396	A. CHATHNEY				H	NEGRO
292	61-38-9072	W. RILEY				H	NEGRO
295	133-46-2690	A. LABRET				H	NEGRO
448	71-38-3662	[illegible]. GOLDEN				H	NEGRO
481	84-44-1837	I. AVELANICIO				H	SPANISH
1601	66-42-7868	F. PENTONY				H	SPANISH
2352	93-40-4221	P. SARNE				H	AMER INDIAN
1219	100-44-8702	D. BLANK				H	ORIENTAL
960	72-40-6991	M. BOSTOCK				H	NEGRO
427	144-40-6582	C. MARCHAND				M	SPANISH
1234	93-35-3566	G. MARTINEZ				M	SPANISH
278	56-44-6963	M. PARRA				L	SPANISH
493	51-40-9299	D. KINLEY				L	NEGRO
2523	100-46-7705	V. GONZALEZ				L	SPANISH
2553	74-42-1159	M. STEWART				L	NEGRO
2297	580-09-3374	L. GEORGE				L	NEGRO
265	75-42-0560	R. CERVAS				L	NEGRO
466	129-42-6389	S. ABDUR-RAHIM				L	NEGRO
235	556-94-1181	G. GRANT				L	NEGRO
1025	64-42-4149	C. MILLER				L	NEGRO
311	56-44-3487	W. COLE					NEGRO
352	110-40-0322	C. BOSTICK					NEGRO
331	104-40-3957	A. HERNANDEZ					SPANISH
404	254-84-0045	A. BELL					NEGRO
328	141-44-2[illegible]	M. GREENE					NEGRO
306	101-40-2209	E. MONTALVO					SPANISH
455	61-42-9682	C. DALY					NEGRO
342	125-44-7724	C. MIESES					NEGRO
329	583-16-2217	A. OVERMAN					SPANISH

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE	RACE
307	116-44-5398	M. VASCUEZ					SPANISH
341	62-36-4726	D. PORRATA					SPANISH
339	92-36-0533	A. RIVERA					AMER INDIAN
353	61-46-5699	R. RAMOS					SPANISH
340	61-42-9652	M. VALVERA					NEGRO
347	100-42-5411	R. DELGADO					SPANISH
343	560-12-0893	C. CLAIRMONT					AMER INDIAN
305	74-40-8513	J. NIEVES					SPANISH
346	72-38-5974	E. HERNANDEZ					SPANISH
308	103-42-4184	I. GARCIA					SPANISH
317	584-16-2994	M. SELLA					SPANISH
327	249-60-2210	F. LEWIS					NEGRO
332	126-44-6773	D. FINNEY					NEGRO
315	115-44-6083	F. ROBERTSON					NEGRO
334	61-42-7655	M. CREY					NEGRO
325	107-40-2556	A. DeLEON					SPANISH
490	54-44-6606	E. COTMAN					NEGRO
420	57-44-1708	K. HOLMES					NEGRO
224	74-40-9239	S. BELL					NEGRO
279	125-44-5548	S. SMITH					NEGRO
2290	115-36-5991	R. THURMAN					NEGRO
319	56-44-2767	G. SAMUELS					NEGRO
413	91-44-9087	W. TILLMAN					NEGRO
436	99-42-5025	J. TROTMAN					NEGRO
354	95-42-9849	I. VELEZ					SPANISH
287	66-42-6623	B. CHIN					ORIENTAL
294	67-40-6646	G. HAMILTON					AMER INDIAN
357	121-40-3455	J. SMALL					AMER INDIAN
356	61-46-5779	R. CRAIG					NEGRO
360	121-36-3614	A. GORDON					NEGRO

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPTITUDE	RACE
268	51-36-5480	M. RODRIGUEZ JR					SPANISH
2566	583-16-0178	J. MARTI					SPANISH
2567	107-40-0475	C. GOLDEN					NEGRO
2570	119-4[illegible]4104	G. PERAZA					SPANISH
2316	62-44-3209	J. SANTIAGO					SPANISH
2572		L. DCOSTA					NEGRO
333	121-38-1218	E. WATTS					NEGRO
2573	92-46-6090	E. SMITH					NEGRO
336	50-50-0437	R. BRITTON					NEGRO
335	73-42-2122	A. BAEZ					SPANISH
313	237-94-7191	A. BROOKS					NEGRO
2606	242-92-1330	E. LEDBETTER					NEGRO
2616	539-54-6381	G. HENDERSON					NEGRO
2610	100-46-8056	L. SCOTT					NEGRO
2284	99-45-2441	P. ANDERSON					NEGRO
239	122-42-4103	J. SERRANO					SPANISH
425	105-40-3731	D. MALDONADO					SPANISH
423	227-78-3757	M. BELL					NEGRO
436	93-40-1361	R. SCOTT					NEGRO
2291	55-44-2413	W. NELSOD					NEGRO
424	227-76-5933	W. WHITE					NEGRO
437	115-40-8094	A. WILLS					NEGRO
238	194-38-5962	A. ROUSE					NEGRO
339	70-40-6772	V. JOHNSON					NEGRO
223	251-90-5583	J. JOHNSON					NEGRO
233	117-44-1608	D. GLANBOCK					SPANISH
221	72-46-9772	R. EAVES					NEGRO
251	123-42-0243	T. JOHNSON					NEGRO
222	91-42-3163	W. ANDERSON					NEGRO
2282	104-38-7234	O. SULLEMAN					NEGRO

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE	RACE
2306	129-42-6191	V. HAUGHTON					NEGRO
345	98-36-0020	H. SIMPKINS					NEGRO
301	97-40-2801	L. RODRIGUEZ					NEGRO
499	94-50-5462	P. LU					ORIENTAL
442	95-40-1892	R. CORBETT					NEGRO
419	99-44-2969	J. EDWARDS					NEGRO
2363	93-42-5028	A. DACOSTA					NEGRO
2550	93-48-0194	K. CHO					ORIENTAL
2605	95-40-4219	W. WHITE					NEGRO
2615	92-34-7758	T. CURRY					NEGRO
326	91-36-3371	R. MONTALVO					SPANISH
264	94-40-3293	E. ROBINSON					NEGRO
2241	106-42-3518	K. CRUZ					SPANISH
513	92-50-1792	W. YU					ORIENTAL
290	96-44-9572	L. JACKSON JR					NEGRO
2184	256-76-7850	D. BACON					NEGRO
2180	59-42-1955	R. HARRIS					NEGRO
2609	103-48-8331	M. DEMPSTER					NEGRO
2617	91-40-8025	M. FORTUNE					NEGRO
2607	75-42-3058	R. HOWARD					NEGRO
2620	99-40-8851	L. DAVIS					NEGRO
2621	122-42-9089	L. APONTE					SPANISH
2427	118-46-9645	C. OGLE					AMER INDIAN
2379	107-48-0146	M. MARCANO					NEGRO
373	53-42-4173	A. WIGGINS					NEGRO
2608	114-40-4512	F. BROWN					NEGRO
2613	75-44-3889	C. THOMPSON					NEGRO
2412	101-36-8707	E. MELENDEZ					SPANISH
2390	81-42-2521	J. HACK					NEGRO
2330	51-50-2499	P. MEJIAS					AMER INDIAN

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APP. #	S.S. NO	NAME	SCORE 1	SCORE 2	AVERAGE	APPTITUDE	RACE
1906	134-38-3312	L. GOMEZ					SPANISH
2309	106-4 -4319	J. OLIVER					NEGRO
366	92-38-4140	C. GONZALEZ					NEGRO
299	56-42-0752	P. CRUZ					SPANISH
452	129-34-3610	J. PENDASVIS JR					NEGRO
297	98-44-5826	P. HONG					ORIENTAL
401	65-42-9406	D. JAMES					NEGRO
504	74-44-6934	R. LEE					ORIENTAL
303		J. GUZMAN					SPANISH
316	121-38-2745	R. JONES					NEGRO
321	95-46-0985	N. RUIZ					AMER INDIAN
411	76-36-4360	G. HUNTER					NEGRO
350	133-42-2210	L. JOHNSON					NEGRO
318	52-40-0666	L. RODRIGUEZ					SPANISH
372	115-44-5477	R. DAYS					NEGRO
249	124-44-5143	E. DEJESUS					SPANISH
377	130-40-9160	D. EVANS					NEGRO
259	62-44-3937	B. BLANCER					NEGRO
280	60-36-3099	L. HOLMES					NEGRO
2296	161-36-3633	S. HENDERSON					NEGRO
2310	60-42-2284	D. HAYES					NEGRO
255	109-40-4930	E. CALDWELL					NEGRO
252	119-42-9669	D. FRAZER					NEGRO
2317	99-40-7547	D. ROGERS					NEGRO
265	52-40-5510	B. LIU					ORIENTAL
470	62-40-2763	A. JACKSON					NEGRO
2309	126-46-5338	M. OWENS					NEGRO
2299	129-42-5259	J. RICHARDSON					NEGRO
263	90-46-2637	L. REGIS					NEGRO
257	61-40-9343	J. MCMILLON					NEGRO

APP. #	S.S. NO.	NAME	SCORE 1	SCORE 2	AVERAGE	APTITUDE	RACE
365	82-40-2926	S. LOTT					NEGRO
275	66-42-4377	M. PARON					SPANISH
2551	69-45-2950	H. GUEK					ORIENTAL
269	110-34-5494	E. JENKINS					NEGRO
283	125-44-5520	C. JOYNER					NEGRO
476	109-38-4220	D. FAUCETT					NEGRO
484	363-58-3837	M. WONG					ORIENTAL
356	54-44-6698	E. GEIGEL					ORIENTAL
230	54-46-5350	M. TURPALES					NEGRO
219	56-46-3558	W. STANLEY					NEGRO
302	242-90-8320	J. BAILEY					NEGRO
261	237-90-1528	W. TAYLOR					NEGRO
2295	114-44-8525	K. SHAW					NEGRO
375	82-40-3522	M. ABDUS-SALAM					NEGRO
500	125-50-1000	L. LAI					ORIENTAL
371	69-42-2959	A. SOTO					NEGRO
421	57-44-4502	J. GRAHAM JR					NEGRO
497	54-40-3119	M. HARRIS					NEGRO
488	91-36-0039	T. HALL					NEGRO
454	111-38-5257	R. GREEN					NEGRO
422	126-44-5396	C. CARLEY					NEGRO
487	98-46-7590	S. MARSHACK					NEGRO
1592	587-34-0431	J. BLACK					NEGRO
1117	91-46-8969	J. ROSA					SPANISH
154	144-44-9695	R. RODRIGUEZ					SPANISH
	TOTAL 166					21 2 9 154 166	

FINAL TOTAL	327	HIGH	MED	LOW	*	No show	FINAL TOTAL
		121	20	31	1	154	327

* - Indicates that applicant did not complete aptitude test - due to hand injury

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al., Defendants.	:	71 Civ. 847 (DBB)
	:	NOTICE OF SETTLEMENT
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	:	71 Civ. 2877 (DBB)

S I R S :

PLEASE TAKE NOTICE that the within Order will be presented for settlement and signature on behalf of ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638, a defendant in these combined actions, to the Clerk of the United States District Court at his office in the U. S. Courthouse, Foley Square, Borough of Manhattan, City of New York, on the 24th day of September, 1975, at 10:00 in the forenoon

or as soon thereafter as counsel can be heard.

Dated: New York, New York

September 22, 1975

Yours, etc.,

DELSON & GORDON
Attorneys for Defendant
Enterprise Association
Steamfitters' Local 638
230 Park Avenue
New York, New York 10017

By: Ralph P. Katz
Ralph P. Katz

TO: TUFO, JOHNSTON & ALLEGAERT
645 Madison Avenue
New York, New York 10022

PAUL J. CURRAN
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007

MARILYN R. WALTER
423 West 118th Street, 6th Floor
New York, New York 10027

BREED, ABBOTT & MORGAN
One Chase Manhattan Plaza
New York, New York 10005

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	:	71 Civ. 847 (DBB)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	:	71 Civ. 2877 (DBB)

ORDER

Plaintiffs having moved for an order awarding class-wide back pay to persons who were denied equal employment opportunities by defendants,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Plaintiffs' motions are granted to the extent that back pay will be paid by Enterprise Association Steamfitters' Local 638 of U.A. (hereinafter "Local 638") to qualified members of the class who file a written claim for back pay with the Administrator, Vincent McDonnell, Esq. 127 E. 35th St., N.Y., N.Y. 10017 on or before December 31, 1975, with proof of the following:

(a) He applied in writing for membership in Local 638's A Branch.

(b) He was discriminatorily denied admission to the A Branch after October 15 .968.

(c) At the time of his appli:ation the claimant resided in a county within the jurisdiction of Local 638, and was qualified for admission under the standards used in this Court's Order of June 21, 1973.

(d) The claimant sustained monetary damages resulting from his denial of admission to the A Branch. Monetary damages will be computed on the basis of the average monthly wage paid to members who were admitted to the A Branch on or after October 15, 1968, less any other employment income or public assistance which the individual received or would have received with due diligence.

2. Discrimination as to a claimant for purposes of back pay will commence on the date on which the next applicant for membership in the A Branch who does not qualify as a member of the plaintiff class was admitted to the A Branch. This discrimination for purposes of back pay awards will be deemed to continue until the date claimant was admitted to the A Branch or until June 21, 1973, whichever is earlier.

3. Local 638 shall give notice of the terms of this Order to members of the class by posting a copy of this Order in a prominent place in its office until December 31, 1975.

4. Payment by Local 638 will be made after determination of all claims. This Court reserves the right, upon application by Local 638, and after review of the aggregate liability for back pay awards and its impact on the financial resources of Local 638, to make a pro rata reduction of each claimant's award or provide for payments in installments.

5. In all other respects the motions are denied.

Dated: New York, New York
September 22, 1975

UNITED STATES DISTRICT JUDGE

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,

Defendants.

NOTICE OF APPEAL

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

71 Civ. 2877 (D.E.B.)

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,

Defendants.

Notice is hereby given that Enterprise Association Steamfitters Local 638, one of the defendants above named, hereby appeals to the United States Court of Appeals for the Second Circuit from that portion of the Order entered in this action on October 9, 1975 (motion to amend or alter the order denied on November 21, 1975) granting attorneys fees and disbursements to the National Employment Law Project, Inc., attorneys for plaintiffs George Rios, et al.

Dated: New York, New York
December 16, 1975.

DELSON & GORD
230 Park Avenue
New York, New York 10017
Attorneys for Defendant
Enterprise Association
Steamfitters Local 638

By /S/
Richard Brook

SJG:amm
70-1674

Original filed
12/9/75
J

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al.,

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al.,

Defendants.

~~71 Civ. 847~~
(D.B.B.)

NOTICE OF APPEAL

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al.,

Defendants.

71 Civ. 2877
~~(D.B.B.)~~
HFW

Notice is hereby given that plaintiff Equal Employment Opportunity Commission in 71 Civ. 2877 hereby appeals to the United States Court of Appeals for the Second Circuit from each and every aspect of the Order

SJG:amm
70-1674

filed in this action on October 9, 1975 and entered October 17, 1975, ruling upon plaintiffs' motion for back pay, except insofar as said Order did award back pay.

Dated: New York, New York

December 9, 1975

THOMAS J. CAHILL
United States Attorney for the
Southern District of New York
Attorney for Plaintiff, Equal
Employment Opportunity Commission

By: /s/
STEVEN J. GLASSMAN
Assistant United States Attorney
Office and Post Office Address:
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1968

TO: RICHARD BROOK, ESQ.
DELSON & GORDON
230 Park Avenue
New York, New York 10017

Attorneys for Enterprise Association Steamfitters' Local 638 of U.A. and Union Members of the Joint Steamfitting Apprenticeship Committee

THOMAS A. SHAW, JR., ESQ.
BREED, ABBOTT & MORGAN
One Chase Manhattan Plaza
New York, New York 10005

Attorneys for Mechanical Contractors Association of New York, Inc. and Employer Members of the Joint Steamfitting Apprenticeship Committee

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A-821

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's Regional Office in your area as soon as possible. It must be mailed within 90 days after the discriminatory act took place.

This form is to be used only to file a charge of discrimination based on RACE, COLOR, RELIGION, SEX, or NATIONAL ORIGIN.

Case File No. _____

(PLEASE PRINT OR TYPE)

1 Your Name (Mr., Mrs., Miss) George Rios Phone Number 289-7705

Street Address (Indicate) 151 East 107th Street

City New York, State New York Zip Code 10029

2 WAS THE DISCRIMINATION BECAUSE OF: (Please check one)

Race or Color ☒ Religious Creed ☐ National Origin ☒ Sex ☐

3 Who discriminated against you? Give the name and address of the employer, labor organization, employment agency and/or apprenticeship committee. If more than one, list all.

Name Enterprise Association Steamfitters Local Union 1638 of U.A.

Street Address 841 Broadway

City New York State New York Zip Code

AND (other parties if any) Mechanical Contractors Association of New York, Inc. 230 Park Avenue, New York, New York

Joint Apprenticeship Committee of the Steamfitters Industry Educational Fund 75 East 45th Street, New York, New York

4 Have you filed this charge with a state or local government agency? Yes ☒ When 8 (Month) 19 (Day) 70 (Yr.) No ☐

5 If your charge is against a company or a union, how many employees or members? Over 25 ☒ Over 50 ☐

6 The most recent date on which this discrimination took place: Month 10 Day 6 Year 70 (Yr.) and earlier date ☐

7 Explain what unfair thing was done to you. How were other persons treated differently? (Use extra sheet if necessary.)

1. My name is George Rios and I am a 32 year old Puerto Rican citizen of the United States residing in New York, New York.

2. Upon information and belief, the Defendant Enterprise Association Steamfitters Local Union 1638 of U.A. (hereinafter referred to as the "Union") is a labor union which is the exclusive referral agent for union jobs in the steamfitting industry in the New York City area.

3. Upon information and belief, the Defendant Mechanical Contractors Association of New York, Inc. (hereinafter referred to as the "Association") represents the employers in the New York steamfitting industry in their relations with the Union and represents those employers in the negotiation of the collective bargaining agreement between the Union and those employers.

(continued on attached rider which is adopted and made a part hereof)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Date Oct. 15, 1970 George Rios

4. Upon information and belief, the Defendant Joint Apprenticeship Council of the Steamfitters Industry Educational Fund is a committee composed of representatives of the Union and the Association. The Council supervises the steamfitters apprenticeship program and has general responsibility for establishing apprenticeship standards.

5. On February 20, 1970, I went to work as a steamfitter for the Urban Mechanical Company on a construction job located at Seventh Avenue and 125th Street, New York, New York and I am working as a steamfitter on that job as of this date.

6. I have been informed by Mr. Frederick Clark, President of Urban Mechanical Company that he has made numerous efforts to secure membership in the Union for me and for Eugene C. Jenkins, a Negro, who works with me on this job and who also wants to join the Union. Mr. Clark informed me that he made these efforts during the period from March to June, 1970. On May 27, 1970, he wrote to the Union asking that Mr. Jenkins and I be made members. He has informed me that as of the date of this complaint he has received no response.

7. In May, 1970, I went to the office of the Union located at 841 Broadway, New York, New York. Mr. Jenkins went with me. We informed the receptionist that we wanted to become members of the Union. She told us that we should write a letter requesting application forms. We went to a nearby store and purchased writing paper and we wrote a letter requesting application forms. We left the letter with the receptionist. I have had no response to that letter and Mr. Jenkins has told me that he has had so such response.

8. Since we got no answer to this letter Mr. Jenkins and I each wrote an additional letter to the Union in late June, 1970. In these letters we stated that we felt that the Union was trying to avoid making us members and urged that the Union admit us as soon as possible.

9. Mr. James Haughton, President of Harlem Fight-Back, an organization of minority group construction workers of which I am a member, told me that he also wrote to the Union in late June, 1970 and asked that Mr. Jenkins and I be admitted to membership. I understand that in his letter Mr. Haughton informed the Union that he thought it was refusing to admit Mr. Jenkins and me.

10. No one has received any response whatsoever to any of the many letters addressed to the Union. Nor has there been any response to the oral requests made by Mr. Clark, Mr. Jenkins and me. The Union is obviously refusing to admit me to membership. This must be because of my race, color and national origin since I am fully capable of doing steamfitting work. In fact, I had four years experience as an apartment house maintenance man where my work involved pipefitting and plumbing work. In the summer of 1969, I went to work for Mr. Erling Rolde, a plumbing contractor. I worked for him until February, 1970, when I began my present job. He is an excellent plumbing contractor and he taught me to do plumbing and general pipefitting. I began my present job in

February, 1970. Mr. Jenkins and I have done all of the steamfitting work on this job and Mr. Clark has repeatedly told us that we are doing an excellent job. I have learned the steamfitting trade and I can do steamfitting work as well as anyone. The Union has no legitimate reason to refuse to admit me to membership.

11. On August 19, 1970 I filed a Complaint (a copy of which is annexed as Exhibit "A") charging substantially the same acts of discrimination by the Defendants as charged herein with the N.Y. State Division of Human Rights. To date, the Division has made no decision on that complaint. I request that the Equal Employment Opportunity Commission assume jurisdiction of my case.

12. If I am not admitted to membership I cannot get work on union jobs which are the vast majority of available jobs and the only jobs paying union scale wages. This will mean that when my present job ends I will not be able to get any decent work in my trade.

13. I believe that the Union's agreement with management requires that I be admitted to membership within a few days after I begin working on a union job. Mr. Clark is a party to that agreement and his job is a Union job. The Union is deliberately ignoring that agreement in order to keep me from getting work when this job ends.

14. I believe, from what I have seen and heard, that there are virtually no Negroes or Puerto Ricans in the Union.

15. I believe that the Union, if it does agree to accept me for membership will try to force me to take the apprenticeship program operated jointly by the Defendants before admitting me to full membership though I am fully capable of performing all types of steamfitting work. I think that this discriminates against me on the basis of my race, color and national origin because the Union admits whites without requiring them to be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way related to that work and which require workers to be over-qualified to do such work. These barriers include an age limit, a residence limit, numerous tests, unnecessary class-room and on-the-job training and an unnecessarily long period of apprenticeship training. I also believe that the Union's practice of of unnecesarily restricting the size of its apprenticeship class and the number of persons admitted to membership is a discriminatory device. I believe that the apprenticeship program is established, financed and supervised by all the Defendants acting in concert.

16. The apprenticeship program and the membership qualifications and restrictions imposed by all of the Defendants operate to deny access to work in the steamfitting industry in a discriminatory manner. I believe that, in practice, steamfitting industry employers do not hire workers who are not members of the Union or who the Union will not admit to membership.

RIDER (p. 3)

17. On October 5, 1970, a preliminary hearing was held on my case by the New York State Division of Human Rights. The Union continued to refuse to admit me to membership. As of this date I have received no information concerning the result of that hearing.

EXHIBIT A

STATE OF NEW YORK : EXECUTIVE DEPARTMENT

A-826

STATE DIVISION OF HUMAN RIGHTS
on the complaint of

GEORGE RIOS

Complainant,

against

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION #638 OF UA, MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC. AND THE JOINT APPRENTICESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND,

Respondent.

COMPLAINT NO.

I, George Rios

residing at 151 E. 107th St., New York, New York Tel No. 289-7706

charge ENTERPRISE ASSOCIATION, STEAMFITTERS LOCAL UNION NO. 638 OF THE U.A.; MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC., AND JOINT APPRENTICESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND; whose addresses are: 84 Broadway (Tel. 674-3937), 230 Park Ave. (Tel. MU6-0940) and 75 E. 45th St. (Tel. MU5-8453), New York, New York, respectively.

with an unlawful discriminatory practice relating to employment on or about June, 1970 and continuing to

by refusing to admit me to membership in Enterprise Association Steamfitters Local Union No. 638 of the U.A.

because of my AGE ( ), RACE (X), CREED ( ), COLOR (X), NATIONAL ORIGIN (X), SEX ( ).

The particulars are:

1. My name is George Rios and I am a Puerto Rican citizen of the United States residing in New York, New York.

2. Upon information and belief, the Defendant Enterprise Association Steamfitters Local Union #638 of UA (hereinafter referred to as the "Union") a labor union which is the exclusive referral agent for union jobs in the steamfitting industry in the New York City area.

3. Upon information and belief the Defendant Mechanical Contractors Association of New York, Inc. (hereinafter referred to as the "Association") represents the employers in the New York steamfitting industry in their relations with the Union.

4. The Defendant Joint Apprenticeship Council of the Steamfitters Industry Educational Fund is a committee composed of representatives of the Union and the Association which supervises the steamfitters apprenticeship program.

5. On February 20, 1970, I went to work as a steamfitter for the Urban Mechanical Company on a construction job located at Seventh Avenue and 125th Street, New York, New York, and I am working as a steamfitter on that job as of this date.

6. I have been informed by Mr. Frederick Clark, President of Urban Mechanical Company that he has made numerous efforts to secure membership in the Union for me and for Eugene C. Jenkins , a Negro, who works with me on this job and who also wants to join the Union. Mr. Clark informed me that he made these efforts during the period from March to June, 1970. On May 27, 1970, he wrote to the Union asking that Mr. Jenkins and I be made members. He has informed me that as of the date of this complaint he has received no response.

7. In May, 1970, I went to the office of the Union located at 84 Broadway, New York, New York. Mr. Jenkins went with me. We told the receptionist that we wanted to become members of the Union. She told us we should write a letter requesting application forms. We went to a nearby store and purchased writing paper and we each wrote a letter requesting application forms. We left the letters with the receptionist. I have had no response to that letter and Mr. Jenkins has told me that he has had no response.

8. Since on or about June, 1970, Respondents Union, Association and Joint Apprenticeship Committee have refused to admit me to membership in the Union and have refused to admit Eugene C. Jenkins to membership in the Union because of his race and color.

Complainant: GEORGE RIOS Complaint No.

Respondents: ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION 638 OF U.A., PIPEFITTERS CONTRACTORS ASSOCIATION OF NEW YORK, INC. AND THE JOINT APPRENTICESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND

9. Mr. James Haughton, President of Harlem Fight-Back, an organization of minority group construction workers of which I am a member, told me that he also wrote to the Union in late June, 1970 and asked that Mr. Jenkins and I be admitted to membership. I understand that in his letter Mr. Haughton informed the Union that he thought it was refusing to admit Mr. Jenkins and me.

10. No one has received any response whatsoever to any of the many letters addressed to the Union. Nor has there been any response to the oral requests made by Mr. Clark, Mr. Jenkins and me. The Union is obviously refusing to admit me to membership. This must be because of my race, color and national origin since I am fully capable of doing steamfitting work. In fact I had four years experience as an apartment house maintenance man where my work involved pipe fitting and plumbing work. In the summer of 1969, I went to work for Mr. Erling Rohde, a plumbing contractor. I worked for him until February, 1970, when I began my present job. He is an excellent plumbing contractor and he taught me to do plumbing and general pipe fitting. I began my present job in February, 1970. Mr. Jenkins and I have done all of the steamfitting work on this job and Mr. Clark has repeatedly told us that we are doing an excellent job. I have learned the steamfitting trade and I can do steamfitting work as well as anyone. The Union has no legitimate reason to refuse to admit me to membership.

11. If I am not admitted to membership I cannot get work on union jobs which are the vast majority of available jobs and the only jobs paying union scale wages. This will mean that when my present job ends I will not be able to get any decent work in my trade.

12. I believe that the Union's agreement with management requires that I be admitted to membership within a few days after I begin working on a union job. Mr. Clark is a party to that agreement and his job is a Union job. The Union is deliberately ignoring that agreement in order to keep me from getting work when this job ends.

13. I believe, from what I have seen and heard, that there are virtually no Negroes or Puerto Ricans in the Union.

14. I believe that the Union, if it does agree to accept me for membership will try to force me to be an apprentice for a number of years before admitting me to full membership though I am fully capable of performing all types of steamfitting work. I think that this discriminates against me on the basis of my race, color and national origin because the Union admits whites without requiring them to be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way rel

(continued on attached rider which is adopted and made a part hereof)

By reason of the unlawful discriminatory practice of respondent as herein alleged, complainant has already suffered damages in the sum of $ .....

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

STATE OF NEW YORK }
COUNTY OF } ss:

George Rios
(Signature of Complainant)

Rider

to that work and which require workers to be over-qualified to do such work. These barriers include an age limit, residence limit, numerous tests, unnecessary class-room and on-the-job training and an unnecessarily long period of apprenticeship training. I also believe that the Union's practice of unnecessarily restricting the size of its apprenticeship class and the number of persons admitted to membership is a discriminatory device deliberately designed to exclude minority group members and not applied when whites seek membership.

15. I am a 32 year old Puerto Rican and for the foregoing reasons I charge the defendants with violations of the New York State Human Rights Law.

CHARGE OF DISCRIMINATION

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's Regional Office in your area as soon as possible. It must be mailed within 90 days after the discriminatory act took place.

This form is to be used only to file a charge of discrimination based on RACE, COLOR, RELIGION, SEX, or NATIONAL ORIGIN.

Case File No. _____

(PLEASE PRINT OR TYPE)

1 Your Name (Mr., Mrs., Miss) Eugene Jenkins Phone Number 516-489-0
Street Address 83 Harriman Avenue
City Hempstead, Long Island State New York Zip Code 11550

2 WAS THE DISCRIMINATION BECAUSE OF: (Please check one)
Race or Color ☒ Religious Creed ☐ National Origin ☐ Sex ☐

3 Who discriminated against you? Give the name and address of the employer, labor organization, employment agency and/or apprentice committee. If more than one, list all.
Name Enterprise Association Steamfitters Local Union #638 of the U.A.
Street Address 841 Broadway
City New York State New York Zip Code
AND (other parties if any) Mechanical Contractors Association of New York, Inc.
230 Park Avenue, New York, N. Y.
Joint Apprenticeship Committee of the Steamfitters Industry Education Fund
75 East 45th Street, New York, New York

4 Have you filed this charge with a state or local government agency? Yes ☒ When 8 (month) 10 (day) 70 (year)

5 If your charge is against a company or a union, how many employees or members? Over 25 ☒ Over 50 ☐

6 The most recent date on which this discrimination took place: Month 10 Day 6 Year 70 and continuing to date

7 Explain what unfair thing was done to you. How were other persons treated differently? (Use extra sheet if necessary).
1. My name is Eugene C. Jenkins and I am a 30 year old Negro citizen of the United States residing in Hempstead, Long Island, New York.
2. Upon information and belief, the Defendant Enterprise Association Steamfitters Local Union #638 of U.A. (hereinafter referred to as the "Union") is a labor union which is the exclusive referral agent for union jobs in the steamfitting industry in New York City and its surrounding areas.
3. Upon information and belief the Defendant Mechanical Contractors Association of New York, Inc. (hereafter referred to as the "Association") represents the employers in the New York steamfitting industry in their relations with the Union and represents these employers in the negotiation of the collective bargaining agreement between the Union and steamfitting industry employers.
(Continued on attached rider which is adopted and made a part hereof.)

8 I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNED Oct. 29, 1970 Eugene C. Jenkins
Subscribed and sworn to before me this 29th day of October, 1970
Douglas Brodsky Notary Public

If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the Equal Opportunity Commission's Regional Office. The Commission will then administer the oath.

EEOC 270-1 (Rev. 1-70)

Rider

4. Upon information and belief, the Defendant Joint Apprenticeship Council of the Steamfitters Industry Educational Fund, is a committee composed of representatives of the Union and the Association. The Council supervises the steamfitters apprenticeship program and has general responsibility for establishing apprenticeship standards.

5. On February 20, 1970, I went to work as a steamfitter for the Urban Mechanical Company on a construction job located at Seventh Avenue and 125th Street, New York, New York, and I am working as a steamfitter on that job as of this date.

6. I have been informed by Mr. Frederick Clark, President of Urban Mechanical Company, that he has made numerous efforts to secure membership in the Union for me and George Rios, a Puerto Rican, who works with me on this job and who also wants to join the Union. Mr. Clark informed that he made these efforts during the period from March to June, 1970. On May 27, 1970, he wrote to the Union asking that Mr. Rios and I be made members. As of the date of this Complaint he has received no response.

7. In May, 1970, I went to the office of the Union located at 841 Broadway; New York, New York. Mr. Rios went with me. We informed the receptionist that we wanted to become members of the Union. She told us that we should write a letter requesting application forms. We went to a nearby store and purchased writing paper and we wrote a letter requesting application forms. We left the letter with the receptionist. I have had no response to that letter and Mr. Rios has told me that he has had no such response.

8. Since we got no answer to this letter, Mr. Rios and I each wrote an additional letter to the Union in late June, 1970. In these letters we stated that we felt that the Union was trying to avoid making us members and urged that the Union admit us as soon as possible.

9. Mr. James Haughton, President of Harlem Fight-Back, an organization of minority group construction workers of which I am a member, told me that he also wrote to the Union in late June, 1970 and asked that Mr. Rios and I be admitted to membership. I understand that in his letter Mr. Haughton informed the Union that he thought it was refusing to admit Mr. Rios and me.

10. No one has received any response whatsoever to any of the many letters addressed to the Union. Nor has there been any response to the oral requests made by Mr. Clark, Mr. Rios and me. The Union is obviously refusing to admit me to membership. This must be because of my race and color since I am fully capable of doing steamfitting work. In fact, I spent four years at Thomas A. Edison High School learning the plumbing and pipefitting trade. I worked from 1957 to 1959 for plumbers in New York City. From 1959 to 1963 I served in the Navy as a pipefitter. From 1963 to the time I took my present job I worked as a pipefitter. I began my present job in February,

1970. Mr. Rios and I have done all of the steamfitting work on this job and Mr. Clark has repeatedly told us that we are doing an excellent job. I have learned the steamfitting trade and I can do steamfitting work as well as anyone. The Union has no legitimate reason to refuse to admit me to membership.

11. On August 19, 1970, I filed a Complaint (a copy of which is annexed as Exhibit "A") charging substantially the same acts of discrimination against the Defendants as charged herein, with the New York State Division of Human Rights. To date the Division has made no decision on that Complaint. I request that the Equal Employment Opportunity Commission assume jurisdiction of my case.

12. If I am not admitted to membership I cannot get work on union jobs -- which are the vast majority of available jobs and the only jobs paying union scale wages. This will mean that when my present job ends I will not be able to get any decent work in my trade.

13. I believe that the Union's agreement with management requires that I be admitted to membership within a few days after I begin working on a union job. Mr. Clark is a party to that agreement and his job is a Union job. The Union is deliberately ignoring that agreement in order to keep me from getting work when this job ends.

14. I believe, from what I have seen and heard, that there are virtually no Negroes or Puerto Ricans in the Union.

15. I believe that the Union, if it does agree to accept me for membership, will try to force me to take the apprenticeship program operated jointly by the Defendants before admitting me to full membership though I am fully capable of performing all types of steamfitting work. I think that this discriminates against me on the basis of my race and color because the Union admits whites without requiring them to be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way related to that work and which require workers to be over-qualified to do such work. These barriers include an age limit, a residence limit, numerous tests, unnecessary classroom and on-the-job training and an unnecessarily long period of apprenticeship training. I believe that the apprenticeship program is established, financed and supervised by the Defendants acting in concert. I also believe that the Union's practice of restricting the number of persons admitted to its apprenticeship class and membership is a discriminatory device.

16. The apprenticeship program and the membership qualifications and restrictions imposed by all of the Defendants operate to deny access to work in the steamfitting industry in a discriminatory manner. I believe that, in practice, steamfitting industry employers do not employ workers who are not members of the Union or whom the Union will not admit to membership.

Rider (p. 3)

17. On October 5, 1970, a preliminary hearing was held on my case by the New York State Division of Human Rights. The Union continued to refuse to admit me to membership. As of this date I have received no information concerning the result of that hearing.

EXHIBIT A

STATE OF NEW YORK : EXECUTIVE DEPARTMENT

A-833

STATE DIVISION OF HUMAN RIGHTS
on the complaint of
EUGENE C. JENKINS

Complainant,

against

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION #638 OF UA, MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC. AND THE JOINT APPRENTICESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND

Respondent.

} COMPLAINT NO.

I, Eugene C. Jenkins

residing at 83 Harriman St., Hempstead, Long Island, New York Tel No. 516-489-667

charge Enterprise Association, Steamfitters Local Union No. 638 of the UA; Mec nical Contractors Association of New York, Inc. and Joint Apprenticeship Com tee of the Steamfitters Industry Educational Fund; whose addresses are: 841 B way (Tel. 674-3937), 230 Park Avenue (Tel. MU 6-0940) and 75 E. 45th Street (tel. MU 5-8453, New York, New York, respectively,

with an unlawful discriminatory practice relating to employment on or about June, 1970 and continuing to

by refusing to admit me to membership in Enterprise Association Steamfitters Local Union No. 638 of the U.A.

because of my AGE ( ), RACE (X), CREED ( ), COLOR (X), NATIONAL ORIGIN ( ), SEX ( ).

The particulars are:

1. My name is Eugene C. Jenkins and I am a Negro citizen of the Unite States residing in Hempstead, Long Island, New York.

2. Upon information and belief, the Defendant Enterprise Associatio fitters Local Union #638 of UA (hereinafter referred to as the "Union") is a labor union which is the exclusive referral agent for union jobs in the steamfitting industry in New York City and its surrounding areas.

3. Upon information and belief the Defendant Mechanical Contractors Association of New York, Inc. (hereinafter referred to as the "Association") represents the employers in the New York steamfitting industry in their relations with the Union.

4. Upon information and belief, the Defendant Joint Apprenticeship C of the Steamfitters Industry Educational Fund, is a committee composed of representatives of the Union and the Association which supervises the steamfitters apprenticeship program.

5. On February 20, 1970, I went to work as a steamfitter for the Urban Mechanical Company on a construction job located at Seventh Avenue and 125th Street, New York, New York, and I am working as a steamfitter on that job as of this date.

6. I have been informed by Mr. Frederick Clark, President of Urban Mechanical Company that he has made numerous efforts to secure membership in the Union for me and George Rios, a Puerto Rican, who works with me on this job and who also wants to join the Union. Mr. Clark informed me that he made these efforts during the period from March to June, 1970. On May 27, 1970, he wrote to the Union asking that Mr. Rios and I be made members. As of the date of this Complaint he has received no response.

7. In May, 1970, I went to the office of the Union [illegible] Broadway, New York, New York. Mr. Rios went with me. We informed the [illegible] Joniet that we wanted to become members of the Union. She told us that we should write a letter requesting application forms. We went to a nearby store and purchased writing paper and we each wrote a letter requesting application forms. We left the letters with the receptionist. I have [illegible] no response to that letter and Mr. Rios has told me that he has [illegible]

Complainant: EUGENE C. JENKINS Complaint No.

Respondents: ENTERPRISE ASSOCIATION STEAMFITTING LOCAL UNION #638 OF UA, MECHA... AL CONTRACTORS ASSOCIATION OF NEW YORK, INC., AND THE JOINT APPRE... CESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND

9. Mr. James Haughton, President of Harlem Fight-Back, an organizatio... of minority group construction workers of which I am a member, told me that he also wrote to the Union in late June, 1970 and asked that Mr. Rios and I be admitted to membership. I understand that in his letter Mr. Haughton informed the Union that he thought it was refusing to admit Mr. Rios and me.

10. No one has received any response whatsoever to any of the many letters addressed to the Union. Nor has there been any response to the oral requests made by Mr. Clark, Mr. Rios and me. The Union is obviously refusing to admit me to membership. This must be because of my race and color since I am fully capable of doing steamfitting work. In fact, I spent four years at Thomas A. Edison High School learning the plumbing and pipefitting trade. I worked from 1957 to 1959 for plumbers in New York City. From 1959 to 1963 I served in the Navy as a pipefitter. From 1963 to the time I took my present job I worked as a pipefitter. I began my present job in February, 1970. Mr. Rios and I have done all of the steamfitting work on this job and Mr. Clark has repeatedly told us that we are doing an excellent job. I have learned the steamfitting trade and I can do steamfitting work as well as anyone. The Union has no legitimate reason to refuse to admit me to membership.

11. If I am not admitted to membership I cannot get work on union jobs -- which are the vast majority of available jobs and the only jobs paying union scale wages. This will mean that when my present job ends I will not be able to get any decent work in my trade.

12. I believe that the Union's agreement with management requires that I be admitted to membership within a few days after I begin working on a union job. Mr. Clark is a party to that agreement and his job is a Union job. The Union is deliberately ignoring that agreement in order to keep me from getting work when this job ends.

13. I believe, from what I have seen and heard, that there are virtually no Negroes or Puerto Ricans in the Union.

14. I believe that the Union, if it does agree to accept me for membership, will try to force me to be an apprentice for a number of years before admitting me to full membership though I am fully capable of performing all types of steamfitting work. I think that this discriminates against me on the basis of my race and color because the Union admits whites without requiring them to be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way related to that work and which require workers to be over-qualified to do such work. These barriers include an age limit, a residence limit, numerous tests, unnecessary classroom and on-the-job training and an unnecessarily long period of apprenticeship training. I also believe that the Union's practice of restricting the

(continued on attached rider which is adopted and made a part hereof)

By reason of the unlawful discriminatory practices of respondent as herein alleged, complainant has already suffered damages in the sum of $ .....

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

STATE OF NEW YORK }
COUNTY OF } ss:

Eugene C. Jenkins
(Signature of Complainant)

Sworn to before me this ... day of ..., 19...

Rider

number of persons admitted to its apprenticehsip class and membership is a discriminatory device.

15. I am a 30 year old Negro and for the foregoing reasons I charge the defendants with violations of the New York State Human Rights Law.

Rider

4. Upon information and belief, the Defendant Joint Apprenticeship Committee of the Steamfitters Industry Educational Fund, is a committee composed of representatives of the Union and the Association. The Committee supervises the steamfitters apprenticeship program and has general responsibility for establishing apprenticeship standards.

5. In June, 1970, I went to the office of the Defendant Association. I said that I knew how to do steamfitting work and asked to be given steamfitting work. I was told that I could not do such work unless I became a member of the Union. I was told that to join the Union I would have to complete the apprenticeship program. I was also told that I probably wouldn't want to take the apprenticeship program since the pay was low.

6. In early September, 1970, I went to work as a steamfitter for the Urban Mechanical Company on a construction job located at Seventh Avenue and 125th Street, New York. There is no more work for me on this job as it is almost finished. This job was a Union job under the jurisdiction of the Defendant Union.

7. On September 30, 1970, I wrote to the Union and asked to be admitted to the Union but I have received no answer to this letter.

8. I have spoken with George Rios and Eugene Jenkins, other steamfitters who worked on the 125th Street job with me, and they have told me that they have also been denied membership in the Union and believe it is because of the Union's discriminatory admissions policy.

9. I also understand that Mr. Rios and Mr. Jenkins have frequently sought membership in the Union. All applications, including my own, by minority group members working on the 125th Street job have been ignored by the Union. The Defendant Association discouraged me from trying to join the Union.

10. I am fully capable of doing steamfitting work. I had approximately six years experience as a plumber's helper. I worked in a factory as a leadwiper from 1956 to 1958. I worked with Mr. Erling Rohde, an excellent plumbing contractor, from April, 1970 until July, 1970, part-time, and from July, 1970 to September, 1970, full-time. I did all the work assigned to me by the Urban Mechanical Company and no one expressed dissatisfaction with my work.

11. If I am not admitted to membership in the Union I cannot get work on union jobs -- which are the vast majority of available jobs and the only jobs paying union scale wages. I am not working on the Urban Mechanical Company job because it is almost finished and I cannot get steamfitting work through the Defendants.

12. I believe that the Union's agreement with management requires that I be admitted to membership within a few days after I begin working on a union job. Mr. Frederick Clark, my former employer, the President of Urban Mechanical Company, is a party to that agreement and his job was a Union job. The Union deliberately ignored that agreement in order to keep me from getting work when this job ended.

Rider (p. 2)

13. On October 8, 1970, I filed a complaint (a copy of which is annexed as Exhibit "A") charging substantially the same acts of discrimination by the Defendants as charged herein with the New York State Division of Human Rights. To date the Division has made no decision on that complaint. I request that the Equal Employment Opportunity Commission assume jurisdiction of my case.

14. I believe, from what I have seen and heard, that there are virtually no Negroes or Puerto Ricans in the Union.

15. I believe that the Union, if it does agree to accept me for membership, will try to force me to take the apprenticeship program operated jointly by the Defendants before admitting me to full membership though I am fully capable of performing all types of steamfitting work. I think that this discriminates against me on the basis of my race and color because the Union admits whites without requiring them to be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way related to that work and which require workers to be over-qualified to do such work. These barriers include an age limit, a residence limit, numerous tests, unnecessary classroom and on-the-job training and an unnecessarily long period of apprenticeship training. I believe that the apprenticeship program is established, financed and supervised by all the Defendants acting in concert. I also believe that the Union's practice of restricting the number of persons admitted to its apprenticeship class and membership is a discriminatory device.

16. The apprenticeship program and the membership qualifications and restrictions imposed by all of the Defendants operate to deny access to work in the steamfitting industry in a discriminatory manner. I believe that, in practice, steamfitting industry employers do not hire workers who are not members of the Union or whom the Union will not admit to membership.

17. On November 12, 1970, a preliminary hearing on my case was held, jointly with a second hearing on the Complaints filed by Mr. Rios and Mr. Jenkins, by the New York State Division of Human Rights. The Union continued to refuse to admit me to membership. As of this date I have received no information concerning the results of that hearing.

18. I would like to request that my Complaint be considered, together with those of Mr. Rios (# TNY 1-0450) and Mr. Jenkins (# TNY 1-0449).

EXHIBIT A

STATE OF NEW YORK : EXECUTIVE DEPARTMENT

filed 10/8/70 A-838
received by
N.C. Aldea
N.Y.S. Division of Human Rights
612 East 125th Street

STATE DIVISION OF HUMAN RIGHTS
on the complaint of
ERIC O. LEWIS

Complainant,

against

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION #638 OF UA, MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC. AND THE JOINT APPRENTICESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND

Respondent.

COMPLAINT NO.

I, Eric O. Lewis

residing at 1556 Minford Place, Bronx, New York 10460 Tel No. 323-4402

charge Enterprise Association, Steamfitters Local Union No. 638 of the UA; Mechanical Contractors Association of New York, Inc. and Joint Apprenticeship Committee of the Steamfitters Industry Educational Fund; whose addresses are: 841 Broadway (Tel. 674-3937), 230 Park Ave. (Tel. MU6-0940) and 75 E. 45th St. (Tel. MU5-8453), New York, New York, respectively,

with an unlawful discriminatory practice relating to employment on or about September, 1970 and continuing to date by refusing to admit me to membership in Enterprise Association Steamfitters Local Union No. 638 of the U.A.

because of my AGE ( ), RACE (X), CREED ( ), COLOR (X), NATIONAL ORIGIN ( ), SEX ( ).

The particulars are:

1. My name is Eric O. Lewis and I am a Negro citizen of the United States residing in Bronx, New York.

2. Upon information and belief, the Defendant Enterprise Association Steamfitters Local Union #638 of UA (hereinafter referred to as the "Union") is a labor union which is the exclusive referral agent for union jobs in the steamfitting industry in New York City and its surrounding areas.

3. Upon information and belief the Defendant Mechanical Contractors Association of New York, Inc. (hereinafter referred to as the "Association") represents the employers in the New York steamfitting industry in their relations with the Union.

4. Upon information and belief, the Defendant Joint Apprenticeship Council of the Steamfitters Industry Educational Fund, is a committee composed of representatives of the Union and the Association which supervises the steamfitters apprenticeship program.

5. In June, 1970 I went to the office of the defendant Association. I said that I know how to do steamfitting work and asked to be given steamfitting work. I was told that I could not do such work unless I became a member of the Union. I was told that to join the Union I would have to complete the apprenticeship program. I was also told that I probably wouldn't want to take the apprenticeship program since the pay was low.

6. In early September, 1970, I went to work as a steamfitter for the Urban Mechanical Company on a construction job located at Seventh Avenue and 125th Street, New York, New York, and I am working as a steamfitter on that job as of this date. This job is a Union job under the jurisdiction of the defendant Union.

7. On September 30, 1970 I wrote to the Union and asked to be admitted to the Union but I have received no answer to this letter.

8. I have spoken with George Rios and Eugene Jenkins, other steamfitters on the 125th Street job with me, and they have told me that they have also been denied membership in the Union and believe it is because of the Union's discriminatory admissions policy.

9. I also understand that Mr. Rios and Mr. Jenkins have frequently sought membership in the Union. Six applications, including my own, by minority group members working on the 125th Street job have been ignored by the Union and defendant Association discouraged me from trying to join the Union.

Respondent: ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION #638 of UA NICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC. AND THE JOU TICESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND.

10. I am fully capable of doing steamfitting work. I had approximate six years experience as a plumber's helper. I worked in a factory as a lead wiper from 1956 to 1958. I worked with Mr. Erling Rohde, an excellent plum ing contractor, from April, 1970 until July, 1970 part-time, and from July 1970 to September, 1970 fulltime. I have been able to do all the work assigned to me by the Urban Mechanical Company and no one has expressed dissatisfaction with my work.

11. If I am not admitted to membership in the Union I cannot get work on union jobs-- which are the vast majority of available jobs and the only jobs paying union scale wages. This will mean that when my present job end I will not be able to get any decent work in my trade.

12. I believe that the Union's agreement with management requires that I be admitted to membership within a few days after I begin working on a union job. Mr. Frederick Clark, my employer, the President of Urban Mecha- nical Company, is a party to that agreement and his job is a Union job. The Union is deliberately ignoring that agreement in order to keep me from getting work when this job ends.

13. I believe, from what I have seen and heard, that there are virtuall no Negroes or Puerto Ricans in the Union.

14. I believe that the Union, if it does agree to accept me for member- ship, will try to force me to be an apprentice for a number of years before admitting me to full membership though I am fully capable of performing all types of steamfitting work. I think that this discriminates against me on the basis of my race and color because the Union admits whites with- out requiring them to be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way related to that work and which require workers to be over-qualified to do such work. These barriers include an age limit, a residence limit, numerous tests, unneces- sary classrom and on-the-job training and an unnecessarily long period of apprenticeship training. I also believe that the Union's practice of restricting the number of persons admitted to its apprenticeship class and membership is a discriminatory device.

15. I am a 37 year old Negro and for the foregoing reasons I charge the defendants with violations of the New York State Human Rights Law.

16. I would like to have my complaint treated together with the complaints filed by George Rios and Eugene Jenkins with the Division on August 19, 1970.

By reason of the unlawful discriminatory practice of respondent as herein alleged, complainant has already suffered damages in the sum of $.....

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

STATE OF NEW YORK }
COUNTY OF NEW YORK }ss:

/s/ Ellis O. Lee

CHARGE OF DISCRIMINATION

A-840

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's Regional Office in your area as soon as possible. It must be mailed within 90 days after the discriminatory act took place.

This form is to be used only to file a charge of discrimination based on RACE, COLOR, RELIGION, SEX, or NATIONAL ORIGIN.

Case File No. _____

(PLEASE PRINT OR TYPE)

1 Your Name (Mr., Mrs., Miss) (indicate) WYLIE B. RUTLEDGE Phone Number UI. 7-480

Street Address 502 Grand Avenue

City Brooklyn State New York Zip Code 11238

2 WAS THE DISCRIMINATION BECAUSE OF: (Please check one)

Race or Color ☒ Religious Creed ☐ National Origin ☐ Sex ☐

3 Who discriminated against you? Give the name and address of the employer, labor organization, employment agency and/or apprenticeship committee. If more than one, list all.

Name Enterprise Association Steamfitters Local Union #638 of U.A.

Street Address 841 Broadway

City New York State New York Zip Code

AND (other parties if any) Mechanical Contractors Association of New York, Inc.
230 Park Avenue, New York, New York

Joint Apprenticeship Committee of the Steamfitters Industry Educational Fun
75 East 45th Street, New York, New York

4 Have you filed this charge with a state or local government agency? Yes ☒ When 12 (MONTH) 14 (DAY) 70 (YEAR) No ☐

5 If your charge is against a company or a union, how many employees or members? Over 25 ☐ Over 50 ☒

6 The most recent date on which this discrimination took place: Month 1 Day 31 Year 7 and continuing to date

7 Explain what unfair thing was done to you. How were other persons treated differently? (Use extra sheet if necessary).

1. My name is Wylie B. Rutledge and I am a 21-year-old Negro citizen of the United States residing in Brooklyn, New York.

2. Upon information and belief, the Defendant Enterprise Association Steamfitters Local Union #638 of UA (hereinafter referred to as the "Unio is a labor union which is the exclusive referral agent for union jobs in the steamfitting industry in New York City and its surrounding areas.

3. Upon information and belief, the Defendant Mechanical Contractor Association of New York, Inc. (hereinafter referred to as the "Associati represents the employers in the New York steamfitting industry in their relations with the Union and represents those employers in the negotiati of the collective bargaining agreement between the Union and those employers.

4. Upon information and belief, the Defendant Joint Apprenticeship Committee of the Steamfitters Industry Educational Fund is a committee

(continued on attached rider which is adopted and made a part hereof)

8 I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

Date 7-22-71 Wylie B. Rutledge

Subscribed and sworn to before me this 22nd day of July, 1971

Margaret M. Rivera-Ubiera
Deputy in the Office of the County Clerk
Kings County, New York

M. Rubin
(title)

If it is difficult for you to come to the Regional Office to sign this, sign your own name and mail to the Regional Office. The Commission will get the [illegible]

FORM [illegible]

RIDER (P. 1)

composed of representatives of the Union and the Association. The Committee supervises the steamfitters apprenticeship program and has general responsibility for establishing apprenticeship standards and the administration of training for the steamfitting industry.

5. I received my high school equivalency diploma from a Manpower Development and Training Act program in Public School 189 in New York. During the time that I was preparing for my high school equivalency diploma, I also successfully completed a Manpower Development and Training Act welding class. In November, 1969, I took and passed an examination given by the elevator constructors' union. I worked as an elevator constructo apprentice for approximately two months. I was not allowed to complete the apprenticeship program of the elevator constructors because I was dismissed by two employers, allegedly because I missed and was late for work too frequently. I have also had experience in working as a messenger, rug cutter, employee of a dry cleaner's and mailing service employee.

6. In January, 1970, I received, by mail, a notice that, later that month, the Union would conduct a test for admission to the apprenticeship program operated by all of the Defendants. I enrolled in a class sponsored by the Joint Apprenticeship Program of the Workers Defense League which was designed to prepare me to pass the Union's test.

7. I took the test at the scheduled time and I believe I received passing grades on all aspects of that test. I believe that I was not admitted because the program accepts only a small number of the applicants.

8. I believe, from what I have seen and heard, that there are virtually no Negroes or Puerto Ricans in the Union.

9. I believe that the Union, if it does agree to accept me for membership, will try to force me to take the apprenticeship program operated jointly by the Defendants before admitting me to full membership though I am fully capable of learning to perform all types of steamfitting work in a reasonable training program. I think that this discriminates against me on the basis of my race and color because the Union admits and the Association employs whites without requiring them to first be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way related to that work and which require workers to be overqualified to do such work. These barriers include an age limit, a residence limit, numerous tests, unnecessary classroom and on-the-job training and an unnecessarily long period of apprenticeship training. I believe that the apprenticeship program is established, financed and supervised by all the Defendants acting in concert. I also believe that the practices of the Defendants in restricting the number of persons admitted to the apprenticeship class and membership is a discriminatory device. These practices constitute a continuing discrimination against me.

RIDER (P. 2)

10. The apprenticeship program and the membership qualifications and restrictions imposed by all of the Defendants operate to deny access to work in the steamfitting industry in a discriminatory manner. I believe that, in practice, steamfitting industry employers do not hire workers who are not members of the Union or whom the Union will not admit to membership.

11. I am able-bodied and intelligent and fully capable of performing steamfitting work if I am given a reasonable amount of training. I do not believe that it would be necessary for me to comply successfully with the many requirements now imposed by the Defendants in order to become capable of doing steamfitting work.

12. On December 14, 1970, I filed a Complaint (a copy of which is attached as "Exhibit A"), in which I made substantially the same allegations as contained herein, with the New York State Division of Human Rights. To my knowledge no action has been taken on that Complaint to date.

EXHIBIT A

A-844

STATE OF NEW YORK : EXECUTIVE DEPARTMENT

STATE DIVISION OF HUMAN RIGHTS
on the complaint of

WYLIE B. RUTLEDGE, Complainant,

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION #638 OF UA, MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC. AND THE JOINT APPRENTICESHIP COMMITTEE OF THE STEAMFITTERS INDUSTRY EDUCATIONAL FUND, Respondents.

Filed December 14, 1970

COMPLAINT NO.

I, Wylie B. Rutledge

residing at 502 Grand Avenue; Brooklyn, New York 11238 Tel No. UL. 7-4803

charge Enterprise Association, Steamfitters Local Union #638 of the UA; Mechanical Contractors Association of New York, Inc. and Joint Apprenticeship Committee of the Steamfitters Industry Educational Fund; whose addresses are: 841 Broadway (Tel. 674-3937), 230 Park Ave. (Tel. MU 6-0940) and 75 E. 45th St. (Tel. MU 5-8453), New York, New York, respectively, with an unlawful discriminatory practice relating to employment on or about January, 1970 and continuing to date by refusing to admit me to membership in Enterprise Association Steamfitters Local Union No. 638 of the UA.

because of my AGE ( ), RACE (X), CREED ( ), COLOR (X), NATIONAL ORIGIN ( ), SEX ( ).

The particulars are:

1. My name is Wylie B. Rutledge and I am a 21-year-old Negro citizen of the United States residing in Brooklyn, New York.

2. Upon information and belief, the Defendant Enterprise Association Steamfitters Local Union #638 of UA (hereinafter referred to as the "Union") is a labor union which is the exclusive referral agent for union jobs in the steamfitting industry in New York City and its surrounding areas.

3. Upon information and belief, the Defendant Mechanical Contractors Association of New York, Inc. (hereinafter referred to as the "Association") represents the employers in the New York steamfitting industry in their relations with the Union and represents those employers in the negotiation of the collective bargaining agreement between the Union and these employers.

4. Upon information and belief, the Defendant Joint Apprenticeship Committee of the Steamfitters Industry Educational Fund is a committee composed of representatives of the Union and the Association. The Committee supervises the steamfitters apprenticeship program and has general responsibility for establishing apprenticeship standards and the administration of training for the steamfitting industry.

5. I received my high school equivalency diploma from a Manpower Development and Training Act program in Public School 189 in New York. During the time that I was preparing for my high school equivalency diploma, I also successfully completed a Manpower Development and Training Act welding class. In November, 1969, I took and passed an examination given by the elevator constructors' union. I worked as an elevator constructor apprentice for approximately two months. I was not allowed to complete the apprenticeship program of the elevator constructors because I was dismissed by two employers, allegedly because I missed and was late for work too frequently. I have also had experience in working as a messenger, rug cutter, employee of a dry cleaner's and mailing service employee.

6. In January, 1970, I received, by mail, a notice that, later that month, the Union would conduct a test for admission to the apprenticeship program operated by all of the Defendants. I enrolled in a class sponsored by the Joint Apprenticeship Program of the Workers Defense League which was designed to prepare me to pass the Union's test.

7. I took the test at the [illegible] and received a result of passing grades on all aspects of the test. [illegible] because the program accepts only a [illegible] applicants.

Complainant: WYLIE B. RUTLEDGE Complaint No. .....

Respondent: ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION #638 of UA, et al.

8. I believe, from what I have seen and heard, that there are virtually no Negroes or Puerto Ricans in the Union.

9. I believe that the Union, if it does agree to accept me for membership, will try to force me to take the apprenticeship program operated jointly by the Defendants before admitting me to full membership though I am fully capable of learning to perform all types of steamfitting work in a reasonable training program. I think that this discriminates against me on the basis of my race and color because the Union admits and the Association employs whites without requiring them to first be apprentices or requiring it for only a short time. It also discriminates against me because apprenticeship imposes a number of barriers to work as a steamfitter which are not in any way related to that work and which require workers to be overqualified to do such work. These barriers include an age limit, a residence limit, numerous tests, unnecessary classroom and on-the-job training and an unnecessarily long period of apprenticeship training. I believe that the apprenticeship program is established, financed and supervised by all the Defendants acting in concert. I also believe that the practices of the Defendants in restricting the number of persons admitted to the apprenticeship class and membership is a discriminatory device.

10. The apprenticeship program and the membership qualifications and restrictions imposed by all of the Defendants operate to deny access to work in the steamfitting industry in a discriminatory manner. I believe that, in practice, steamfitting industry employers do not hire workers who are not members of the Union or whom the Union will not admit to membership.

11. I am able-bodied and intelligent and fully capable of performing steamfitting work if I am given a reasonable amount of training. I do not believe that it would be necessary for me to comply successfully with the many requirements now imposed by the Defendants in order to become capable of doing steamfitting work.

12. I would like to request that my complaint be considered, together with those of Mr. Rios, Mr. Jenkins and Mr. Lewis.

By reason of the unlawful discriminatory practice of respondent as herein alleged, complainant has already suffered damages in the sum of $.....

I have not commenced any civil, criminal or administrative action or proceeding in any court or administrative agency based upon the same grievance.

slow pitch, and he said they are going to lay off 50 men, and he said I had to go, and there was another job to be done still, and there was a lot of fitting and welding to do, but we had to go, the two, myself and my mate.

Were there any other men being laid off?

A No. No others

Q Were there any other minority workmen on the job?

A We were the only two minority workmen.

Q Since November 3rd, were you able to secure another job?

A I called Mr. Ray Hopkins, and I also called the union office.

He took my name and telephone number and he said he had no vacancies presently.

Q When you called the union office, whom did you speak to?

A I spoke to the secretary there.

Q And what did you tell her?

A I told her, "Well, I need a ajob."

She said, "Have you a book?"

I said, "I have no book."

I told her I am one of the hundred men that was selected from Joint Apprentice to work on the construction

site, 6089, and she took my name and telephone number. She said they have no vacancies right now.

Q Did she indicate whether they would contact you some other day?

A Well, yes. She said whenever they get vacancies, a job, she is going to call me on the phone. That's what she said.

Q Have you received any such call?

A No, I haven't received any call since that day I have been waiting.

Presently I haven't found a job.

Q Mr. Alexander, are you a member of Local 638?

A No. I am willing to be a member.

Q Do you want to join the A branch?

A Yes. I wish I was in the A branch presently.

Q Why?

A Because you got more security, more benefits and everything, and as far as I understand, the guy who has an A book has more parity than any other man on the job because the job I was working on, the A men were doing the same type of job, and I understand the B men always get more pressure on the job. They have to work more hard and everything. The A men has more benefits, and he gets a job more easily than any other man.

to him.

MR. HARRIS: And that is by an employee of the defendant, your Honor.

THE COURT: I know. I will allow it.

Q Did you take any further steps?

A Yes, I did.

Q What did you do?

A December first, I decided, I sent a letter to the union which I did.

Q I would like to show you Plaintiff's Exhibit 195 for identification and ask if that is a copy of a letter you sent?

A Yes, the same letter.

MR. HARRIS: I offer that in evidence.

THE COURT: Is there any objection to this letter, gentlemen?

MR. FLEISCHMAN: No objection.

THE COURT: It will be received.

(Plaintiff's Exhibit 195 received in evidence.)

Q Mr. Charon, have you ever gotten a response to this letter?

A No.

MR. HARRIS: No furfher questions.

THE COURT: Mr. Yeager?

MR. YEAGER: I have no questions of this witness.

Q Doyou follow different procedures in connecting the pipe to different vessels?

MR. FLEISCHMAN: I object to the question,

A No.

THE COURT: I sustain the objection. None of these jobs are the same, are they, Mr. Arbuckle? Are they the same jobs?

THE WITNESS: Yes, pretty much the same job.

MR. GLASSMAN: No further questions.

BY MR. YAEGER:

Q I believe you left Tubeco, you said, because of the money?

A Yes.

Q How much were you making when you left Tubeco?

A I was making 3.60 per hour.

Q When you began doing work at your present job, what was your salary?

A I started at 7.65 and then went to 8.75 per hour, and at present my salary is 9.73 an hour.

MR. YAEGER: No further questions.

xx RECROSS EXAMINATION

BY MR. FLEISCHMAN:

Q I show you Plaintiff's Exhibit 145F. Have you ever seen this book before?

BY MR. YEAGER:

Q Mr. Riley, when you were employed at Tubeco, what were your earnings per hour?

A I started at $3.60 an hour. I left at $6.20.

Q How much are you earning at Urban.

A $8.11.

Q Are there any deputy foremen on the Urban Mechanical job?

A Yes.

Q Could you give me the name of the deputy foreman?

A All I know is Dennis. I don't know the last name.

MR. YEAGER: No further questions.

THE COURT: Mr. Fleischman.

xx CROSS EXAMINATION

BY MR. FLEISCHMAN:

Q When you entered the United States, did you enter as a permanent immigrant?

A Yes.

Q And how long did you work at Tubeco?

A Three years.

Q Two years?

A Three years.

Q And you received $6.25 an hour at the time you left Tubeco?

A Air conditioning. I have done heating. Just about all aspects of the trade, relating to the trade.

Q Involving steamfitting jobs?

A Yes, sir.

Q Can you read blueprints?

A Yes.

Q Where are you presently working?

A I am working for Broadway Mechanical, at 392 East 197th Street in the Bronx.

Q What kind of work are you doing for them?

A Presently employed at, it is a criminal building on 59th Street, John Jay Criminal Building, and we are doing everything there from hooking up pumps to air conditioning, to hooking up chillers to just about everything.

Q What kind of work are you personally doing?

A Fitting, a little tacking, just about whatever they tell me to do.

Q How much are you being paid at your present job?

A $5.00 an hour.

Q Are you a member of Local $638?

A B.

Q When did you join the B-Branch?

A About almost three years ago.

Q Would you like to become a member of the A-Branch?

told me to do maybe the A man wouldn't do, that's not his job. Whatever they tell you to do you do.

Q Who is the foreman on the job you are on now?

A There is no foreman on the one I am on now.

Q Is there a steamfitter in charge?

A A supervisor in charge.

Q Do you know Mr. Munge, whom Mr. Roger just mentioned?

A Yes, I know him.

Q Is he the foreman --

A On the big job he is the foreman.

Q The John Jay?

A Yes, 459 59th Street.

Q Do you work under him?

A Yes, and under different foremen who are A men.

Q What rate of pay do you receive?

A The same as Mr. Roger.

Q Five dollars an hour?

A Yes.

Q Are you a member of Local 638?

A Yes, I am. I am a B member.

Q Do you wish to join the A Branch?

A I have tried to join the A Branch, yes, I have.

Q Why do you want to join the A Branch?

Q What kind of test did they give you?

A Pipe welding, all position, heli-arc and stick.

THE COURT: Where did you take that? In Spring Valley?

THE WITNESS: On the job site.

Q Were you doing welding on that job?

A Yes. Welding and fitting.

Q You did fitting as well as welding?

A Rigging up pipefitting and welding.

Q Would you like to become a member of the A-Branch of Local 638?

A Sure, yes.

Q Why would you like to become a member?

A Well, working on a permit, you don't get the benefits as a member and no pension, things like that.

Q Have you ever applied for admission to the A-Branch of local 638?

A I asked once in 1970, around December. They told me I am over age. I can't get an apprenticeship because I am overage and, well, they just never bothered.

Q They say you can't get an apprenticeship?

A No. That is the only way, I was told by a woman there that that is the only way I can get an apprenticeship and I had to try somewhere for a job. I have a family and I got to take care of them.

Q Do you know how to read blueprints?

A Yes.

Q For construction work.

Have you ever read blueprints?

A Yes, on the job presently now.

Q You have. Do you think you are capable of running the job, of being a foreman?

A Well, I don't know about foreman jobs.

Q You think you presently read blueprints?

A Yes.

Q Do you read specifications and layout pipe?

A Yes.

Q When did you first start working for Tubeco?

A I started on the 9th of September 1969.

Q What was your rate, your wage rate there?

A I started 3.60 an hour.

Q What did you have --

A I left, $6.25.

Q Did you ever work overtime at Tubeco?

A Yes.

Q Once a week?

A Sometimes.

Q Sometimes more frequently?

A No. I haven't got any overtime from 1970 on

Q What was the first job you had in New York?

A With Tubeco, 123 Varick Avenue, Brooklyn.

Q How long did you work for Tubeco?

A One year.

Q Whatwages were you paid at Tubeco?

A I started off at $3.75 and I completed there after a year with $4.84, I think; I can't remember exactly.

Q Why did you leave Tubeco?

A Well, to get out in the construction field, to earn more money.

Q What job did you then take?

A Well, the first job I went on then was with Norman Heating on East Tremont Avenue in the Bronx, on a job site.

Q What kind of work did you do there?

A I did steamfitting.

Q What other jobs have you had in the New York area?

A Well, after that, I worked with Sta-Kol Corporation. I have been there since.

Q Where are you presently employed?

A With Sta-Kol.

Q On what job are you working?

A I am working on the Hebrew Home of the Aged at 261 Riverdale Avenue, Bronx.

Q What kind of work is going on at that job?

A Yes.

Q Did you tell them how many years experience you had had?

A Yes. I did not accept the job right away. I told them I have to think about it, but when I went home I realize I have a family, so it is better than nothing. So I took the job.

Q How much were you then paid?

A $4 and I think 58 cents an hour, something like that. In a couple of months I was given a raise which brought me to $5 and some cents an hour more.

Q What kind of work are you doing on this present job?

A I was laid off on the job site in Model Cities, Brooklyn, and the contractor got me a job--the contractor's brother got me a job with Bear Heat.

Q Is this with the New York Plan?

A Yes. They gave me a probation period, to find out how good I am, because I was highly recommended, and the end of the week they gave me $7 an hour. So I jumped from $5 and some cents to $7 an hour.

Q Have you received any particular training as long as you have been a member of this New York Plan?

A Yes. I went to 151st Street in the Bronx, the

vocational high school.

Q What kind of training did you receive there?

A Work bench and practical work and theory.

Q Was there anything you learned there that you didn't know before?

A No.

Q Have you learned anything new on the job since you joined the New York Plan that you did not know before?

A No.

Q Would you like to become a member of the A Branch of Local 638?

A Yes.

Q Have you ever applied for membership?

A Yes, I did, two years ago. I wrote a letter to Local 638, at 841 Broadway, but I did not get any reply, so I wrote another letter. I still did not get any reply. And I called up several times and every time I called up the secretary would say there was no one there to answer myquestions which I asked--no one at all there and he is always out of town and I never knew who it was.

Q Did you receive any sponsorship letters from anyone to get into the union?

A Yes. The contractor like the way I work and he recommended me, with a letter, saying that he think I am eligible to become a member of Local 638A.

Q Did you see this letter?

A Yes.

Q Did he give it to you?

A Yes.

Q Did you give it to the Union?

A No, I did not.

Q Do you know if he gave it to the Union?

A No.

Q I show you Plaintiff's Exhibit 203 for identification and ask you is this the copy of the letter that you saw?

A Yes, this is the copy of the letter.

MR. GLASSMAN: I offer it in evidence.

(Pause.)

MR. FLEISCHMAN: No objection.

THE COURT: Received.

(Plaintiff's Exhibit 203 for identification received in evidence.)

Q Are you still working with the New York Plan?

A Yes, I am still working with Cameo, because I was called back after the strike, which lasted sometime, and I was called back.

Q What is your present salary?

A $7 an hour.

Q Is this the same as A men receive?

Q Did you have any interviews in connection with the New York plan?

A Oh, yes. I went to a few and Mr. Sam Mason from the New York plan, also Mr. Joe Good from 638.

Q What did they tell you?

A They told me that all they could offer me with my experience was a two-year training and I had to prove myself on the job before I could get an increase.

Q Did you tell them about your previous experience?

A Oh, yes, sir.

Q What wages did you first get out of the New York plan?

A $4.56 an hour.

Q Where did you work?

A East New York.

Q For what company?

A Peerless Construction Company.

Q A construction site?

A Yes.

Q What kind of work did you do?

A I did steel fitting and welding.

Q Were there A-men on the job?

A Yes. There was only two A-men on the job.

Q Were you doing the same work as A-men?

A Yes.

Q How long have you been working on that job?

A I worked on that job for about a year. Then I was transferred to Coney Island.

Q Who transferred you?

A Kalisch, after the strike.

Q Where were you transferred to?

A To another job out on Coney Island, Neptune Avenue, between 34 --

Q Construction work?

A Construction work.

Q Are there A-men on the job?

A Yes.

Q Are you doing the same work as A-men?

A Yes.

Q What were you paid on that job?

A $5.68 an hour.

Q Where are you presently working?

A Coney Island.

Q Is that the same job you just described?

A Yes, that is the same job.

Q Have you had any training in connection with the New York plan?

A Yes.

Q How are you employed?

A I work for the New York Telephone Company.

Q How much do you make, Mr. Steel?

A $4.29 an hour.

Q Did you take a written examination in an attempt to enter the Steamfitters' Industry as an apprentice?

A Yes.

Q Did you pass that test?

A No.

Q Would you like to enter the steamfitters' program at this time?

A Yes, I would, if it won't cost me a drop in pay, because I have a family.

MR. FLEISCHMAN: Your Honor, we can't hear him.

THE COURT: Would the reporter please read the answer back?

(Answer read.)

Q Mr. Steel, how did you say you are presently employed?

A New York Telephone Company.

Q In what capacity?

A I am a splicer.

Q Did you take a training program to be a splicer?

A Yes.

A Yes.

Q Do you have a family?

A Two daughters.

Q How are you employed?

A I am a fork lift operator for Ecology, Incorporated.

Q How much do you earn at that job?

A $3.17 an hour.

Q Did you ever apply to be an apprentice steamfitter?

A Yes, I have.

Q Did you take the written test to be an apprentice steamfitter?

A Yes, I have.

Q When did you take that t t?

A It was either late 1968 or early 1969, because I had just got out of the Army in 1968, middle of 1968.

Q Did you pass the test?

A No.

Q Did you enroll in the program, the apprenticeship program? Were you allowed to enroll in the apprenticeship program?

A Were I allowed to enroll in the apprenticeship program?

Q Yes.

A What do you mean? I don't understand you.

Q Did you become an apprentice?

A No, I did not.

Q Would you like to be a steamfitter?

A I sure would.

MR. YEAGER: No further questions.

CROSS-EXAMINATION

BY MR. FLEISCHMAN:

Q Where did you take the test?

A I don't remember the exact place. I think it was at a school. I think it was --

Q Were you notified that you had failed?

THE COURT: Do you know where the school was located?

THE WITNESS: It was in Brooklyn somewhere. I think it was in Brooklyn. I am not sure. I was not familiar with the neighborhood where I did have to take the test.

Q Were you notified that you had failed?

A Yes.

Q How old are you now?

A 24 years old. I will be 25 next month.

MR. FLEISCHMAN: No further questions.

MR. SHAW: No questions, your Honor.

A Yes.

Q Overall, from 1964 through 1971, 492 apprentices were indentured. Of these 38 dropped out before completing the five-year program. That is a percentage of 7.7 who were drop outs. When the group is sub-divided by 20, the white apprentices on the one hand and the minority groups on the other, there was a total of 474 white apprentices indentured 31 of these dropped out, or 6.7 per cent.

There was a total of 28 black and Spanish-surnamed apprentices indentured. seven of these dropped out, or 25 per cent of the total. The significant comparison from the point of view simply of the statistical comparison between the two groups, the white apprentices indentured and the minority group apprentices indentured, since the groups are of different sizes, the significant comparison is the percentage of drop out, or what I have called the drop out rate. The drop out rate, I will say again, was 6.7 per cent among the white. It was 25.0 per cent among the minority group apprentices.

Q Are you familiar, from your experience in college and from your teaching experience, with standards, statistical formulae, with statistical probabilities?

A Yes.

Q Did you apply those formulae to your comparative

MR. SHAW: It is literally two now interviews.

MR. FLEISCHMAN: There were 100 examinations per day and the State gave --

THE COURT: What happens after the interviews in determining who is going to be in the class?

MR. FLEISCHMAN: They are ranked and then the first 100 --

THE COURT:All on the basis of the interviews?

MR. FLEISCHMAN: Yes, of which the examination is one factor and they all are ranked and the top 100 will be appointed to as apprentices.

MR. GLASSMAN: What standards are used in the interview?

MR. FLEISCHMAN: It is set forth in the document.

THE COURT: When will you complete the interviewing?

MR. FLEISCHMAB: I would say in about two or three weeks.

MR. BROOK: I am not sure how close they are to completion. They are well over halfway through the interviews.

MR. SHAW: It is not going to be over in two or three weeks then .

MR. FLEISCHMAN: The interviews probably will

be. I was told that.

THE COURT: Tell me when you get through with the interviewing, what is the next step that goes on?

MR.FLEISCHMAN: The scores. Everybody is scored at the interview and those scores are then ranked.

MR. HARRIS: This is a numerical score?

MR.FLEISCHMAN: Yes. Then they are ranked. Then the top 100 are designated to begin the new class.

THE COURT: Is there any system at the present time -- you have the whole groupand you have interviewed all of them, is that it, and then the ranking is made by whom?

MR. FLEISCHMAN: Well, there is a score evolves or is assigned to each person, applicant.

THE COURT: Who is assigning the score?

MR. FLEISCHMAN: The people who do the interviewing. They do it at the timeof the interview. And then they are ranked and ---

THE COURT: How many teams of interviewers are there?

MR. BROOK: Ten teams, I believe.

MR. FLEISCHMAN: It is just a tremendous job. The people have taken of their time. You have employers

A-867

GEORGE RIOS, et al.,

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS, LOCAL UNION #638 of U.A., et al.,

Defendants.

PLAINTIFFS' FIRST REQUEST FOR ADMISSIONS TO DEFENDANT ENTERPRISE ASSOCIATION, LOCAL UNION #638 OF U.A.

71 Civ. 847

Plaintiffs request, pursuant to Rule 36 of the Federal Rules of Civil Procedure, that Defendant Enterprise Association, Steamfitters Local Union #638 of U.A. admit each of the following separate matters to be true:

(A) Each person named in each of the separate paragraphs below, paragraphs 1 through 181, was as of September, 1971, a member of Enterprise Association, Steamfitters Local 638 of U.A.

(B) None of the persons named in each of the separate paragraphs below, paragraphs 1 through 181, is black or Spanish-Surnamed.

(C) Each person named in the separate paragraphs below, paragraphs 1 through 181, is related by blood or through marriage to the other person or to other persons in that same paragraph.

1. James Alles (260142), James Alles (771309), Richard Alles (647400), Robert Alles (553215), and Vincent Alles (903372).

2. Andrew Arenholz (884950), Arthur Arenholz (125805), Arthur Arenholz, Jr. (620295), Herbert J. Arenholz (315127), Joseph Arenholz.

3. William F. Armstrong (405811), William Armstrong, Jr. (647510).

4. Robert Atkins (127700), Robert Atkins.

5. Andrew Bain (901830), Andrew J. Bain (405916).

6. Albert L. Bakay (569481), Eugene Bakay (553131), Stephen Bakay (405801), Ronald Bakay (982241).

7. Charles Barthelmess (260143), D. Barthelmess (771312), Edward Barthelmess (695296), John Barthelmess (345960), Leo Barthelmess, Richard Barthelmess (823202).

8. George Barton (853788), William Barton, Sr. (814780), William Barton (814779).

9. James P. Beadle (405920), Joseph Beadle (763894).

10. Archie J. Berkey (552284), Arthur Berkey (886703), Lewis Berkey (871274), Michael J. Berkey (671479).

11. Charles Biglin (817475), Frank C. Biglin (674222), John W. Biglin (579541), John W. Biglin, Jr. (647488), Joseph Biglin (248740).

12. Hugh J. Boylan (713486), Hugh Boylan (995502), John Boylan (579566), Thomas Boylan (579518), Thomas Boylan (680239).

13. Arthur J. Bresnahan, Sr. (248638), Arthur J. Bresnahan, Jr. (661619), Dennis Bresnahan (874839), Raymond A. Bresnahan (315110), Robert Bresnahan (771255).

14. Charles Byrnes (647405), James Byrnes (315120), James J. Byrnes (871282), Alfred Byrnes (970819).

15. Edward Callahan (870917), Lawrence J. Callahan (695465).

16. Austin E. Cannon, Jr. (890653), Austin Cannon (248600), William J. Cannon (224622), William J. Cannon (647513).

17. Jeremiah Claire (851434), Jeremiah Claire (59822).

18. Amedeo Colangelo (552201), Arthur Colangelo (995585), Rinaldo Colangelo (569332).

19. Howard M. Colen (598063), S. Neal Colen (110620).

20. Cornelius J. Collins, Jr. (840877), Cornelius Collins (260080).

21. Cornelius Collins (257466), Neil Collins (091837).

22. Daniel Collins (572153), Dennis Collins (127761).

23. Richard A. Collins (907861), Richard Collins (680140).

24. William Collins (647404), Stephen Collins (068 44 5428).

25. Joseph Colorio (553162), Joseph Colorio (901839), Joseph Colorio, Sr. (231461).

26. John Corr (901840), John J. Corr (253735).

27. Daniel H. Corridan (577138), Michael Corridan (577184).

28. David Covmou (871299), David Covmou, Sr. (596984).

29. Edward Cummings (598059), James Cummings (995583).

30. Dennis Cummings (995513), Hugh Cummings (800474).

31. Francis Deegan (818948), Neil R. Deegan (970826), Richard Deegan (647436), Ross Deegan (971321), Timothy Deegan (884964).

32. Joseph Dempsey (315178), William Dempsey (598073).

33. Arthur Dillon (553196), Arthur Dillon (959760).

34. Albert DiOrio (303334), John DiOrio (674305), Saverio DiOrio (569096), Terigid DiOrio (303336).

35. A. J. DiSabatino (821905), Salvatore DiSabatino (921906).

36. John Donnelly (260148), John C. Donnelly (980188).

37. Harry Du Beau (623018), William Du Beau (147-38-3948).

38. John Earley (695537), Michael Earley (125684), Peter Earley (579552).

39. John Egan (217654), John Egan (593259).

40. Charles Eggers, Sr. (248602), Charles Eggers, Jr. (620239).

41. Edward Ehrhardt (886067), Edward Ehrhardt, II (253853).

42. Charles Eich (579529), Gerard Eich (661584).

43. Robert English, Sr. (257605), Robert English (674044).

44. John Enright (995522), William Enright (553182).

45. D. J. Epple (851391), Ernest Epple (553157), Harry Eppel (224632), Harry D. Epple (674207).

46. Arthur H. Erny (346039), Fred C. Erny (125362), Fred W. Erny (553209).

47. Francis Fee (803426), Francis Fee (598208), John J. Fee, Jr. (559226), Joseph Fee (823170), Thomas Fee (647391).

48. John Finnegan (345981), Martin Finnegan (901848), Patrick Finnegan (679962).

49. Albert Flanagan (205631), John Flanagan (253529), Joseph Flanagan (771270), Joseph Flanagan (248745), Raymond Flanagan (771269), Thomas Flanagan (202508).

50. Gerald Fossat (823217), John Fossat (620526), Robert Fossat (851462).

51. Matthew Franz (823211), Robert Franz (871320) Robert Franz (668591).

52. Charles Gallagher (217562), Patrick Gallagher (257560).

53. Edward G. Geoghegan (262535), Martin Geoghegan (661627), Richard J. Geoghegan (896228), Vincent Geoghegan (823214), Vincent Geoghegan (554573), Walter Geoghegan (396245).

54. Charles Geyer (553170), Charles Geyer (959766), George J. Geyer (346021).

55. John Gibbons (871325), Joseph Gibbons (260068), Michael Gibbons (490922).

56. Charles J. Gillen (623015), Charles Gillen (857364), Joseph Gillen (671297), Michael Gillen (901850).

57. Francis Gilroy (871328), Frank Gilroy (62021), Joseph Gilroy (809802), Joseph Gilroy (680052), Walter Gilroy (906502).

58. James Gould (260125), Walter Gould (405944), William Gould (257568), William J. Gould, Sr. (147824).

59. Charles M. Graf (909225), Robert W. Graf (572195), William P. Graf (253882).

60. Fred Graff (553129), John Graff (982250), Warren Graff (803431), William Graff (346023).

61. Douglas Grauer (995531), Peter Grauer (995532), Thomas Grauer (823149).

62. Charles P. Gray (569322), Patrick Gray (124293), Raymond Gray (260092).

63. Roy M. Gross (260158), Roy Gross (884072), Seymour Gross (695451).

64. Arnold Guesno (982253), Gilbert Guesno (871334), Gilbert Guesno (260126), Philip Guesno (125390).

65. Michael Hagstrand (132 36 7438), Raymond Hagstrand (577235), Werner Hagstrand (680031).

66. Douglas Hansen (695403), Godtfred Hansen (670697), Raymond Hansen (803436), Robert Hansen (405910), William Hansen (167830).

67. Alfred Hanson (598088), Allan Hanson (995536).

68. Arthur Harkin (598178), Daniel A. Harkin (836307),

George Harkin (647500), Kenneth Harkin (871337), Richard A. Harkin (803437).

69. James Heaney (559275), James Heaney (224571), Robert Heaney (577151).

70. Henry Heinlein (185867), Henry T. Heinlein (861466).

71 Alfred J. Heinrich (315161), Alfred Heinrich (59831).

72. William Henri (224665), William F. Henri, Jr. (661588).

73. John Herrmann (647462), Joseph Herrmann (995533), Robert Herrmann (871343), Robert P. Herrmann (260135).

74. Frank Hyland (224594), John F. Hyland (231481), John Hyland (647463), Joseph Hyland (217539), Thomas E. Hyland (623003), Thomas Hyland (205473).

75. Vincent Jakaitis (300620), William Jakaitis (871353).

76. Dennis Keenan (115-40-2484), Howard Keenan (593179), John P. Keenan (559279), John J. Keenan (147960), John Keenan (896181), John J. Keenan (695516).

77. John J. Kehoe (882931), Peter Kehoe (056-44-3033), Vincent Kehoe (559213).

78. Kenneth Keil (982257), Paul Keil (553201).

79. Michael Kelley (970833), Thomas Kelley (324417).

79a. Harold Kelly (661606), Harvey Kelly (577208).

80. Charles Kenny (840897), Charles Kenny (057 44 0956), David Kenny (995541), Patrick Kenny (980137).

81. Edward Kersten (598095), Frank Kersten (841729), Frank X. Kersten (405897), George Kersten (674394), Robert Kersten (577196).

82. Stephen Kirk (851480), Stephen M. Kirk, Sr. (695519).

83. Martin Klein (851481), Werner P. Klein (620400).

84. Edward Kralick (991781), William Kralick (871364), William Kralick (598254).

85. David Lack (367538), Frederick Lack (202534), George Lack (871367).

86. Christopher Landers, Jr. (647406), Edward Landers (260111), John Landers (901856), Thomas Landers (236194), Thomas Landers (823224), William Landers (315145), William Landers (671362).

87. Arthur Lawless (671401), Raymond Lawless (620452), William Lawless (577144).

88. Cornelius Leap (231445), Edward J. Leap (553144), John V. Leap (647443), Denis J. Leap (647459), Robert Leap (559199), Thomas Leap (559256), Vincent Leap (856231).

89. James W. Leavy (695352), James Leavy (553221), Thomas Leavy (995587), Thomas Leavy (598104).

90. Burton Lee (569488), Edward Lee (257470), Joseph Lee (953105), John Lee (257590), Robert E. Lee (826923), William Lee (577155).

91. Andrew J. Leopold (572194), Donald Leopold (598274), George Leopold (661590), John Leopold (346043).

92. Charles Loesch (846379), Ronald Loesch (970835).

93. John F. Lonergan (823180), Joseph Lonergan (884984), Ronald Lonergan (871371).

94. Alexander Lynett (871374), Alexander J. Lynett (405792), Michael Lynett (851485), Thomas Lynett (871375).

95. Edward A. Mack (569337), John Mack (205449), Lawrence E. Mack (647482), William V. Mack (851488).

96. John Madden (860295), Raymond Madden (569296), Richard Madden (803449).

97. Edward Maher (871376), Gerard Maher (771026),

[illegible] Maher (647397), Raymond F. Maher (253730).

98. James J. Malone (598113), John Malone, Raymond Malone (645867), William Malone (881391).

99. Bernard D. Manion (248743), Frank Manion (257535), Thomas Manion (674028).

100. Charles Marsala (224749), Charles J. Marsala (559260), James Marsala (884989), Joseph Marsala (236216).

101. John A. McAvinue, Jr., Walter J. McAvinue (127990), Walter J. McAvinue, Sr. (559288), William J. McAvinue (405726).

102. Daniel McCort (851497), James McCort (803453), Michael McCort (217633), William A. McCort (559218).

103. James McFeely (970842), Joseph McFeely (095 44 5287), Thomas McFeely (577137), Thomas McFeely (257525).

104. John McGowan (346037), John McGowan (128 44 4377), William P. McGowan (620238).

105. Donald McKay, Jr. (577224), Donald McKay, Sr. (253541).

106. George Milhaven (231513), George F. Milhaven (553175), George P. Milhaven (884998).

107. Edward Miller (553155), Robert Miller (959776).

108. Edward Minikel (345956), Edward J. Minikel (260066), John Minikel (674494), Robert S. Minikel (598186), Valentine J. Minikel (553164).

109. Donald J. Moclair (851508), William Moclair (901858), Wm. L. Moclair (598149).

110. Edward Mulligan (871393), James Mulligan (106 12 1597), James F. Mulligan (872811), James A. Mulligan (257554), John Mulligan (897302), Joseph G. Mulligan (695416), Joseph P. Mulligan (885002), Raymond Mulligan (257564), William Mulligan (647465).

111. Daniel Mulvey (253729), Edward Mulvey (803463), James Mulvey (405864), Joseph Mulvey (771036), Robert Mulvey (695508).

112. James E. Murphy, Jr. (816192), James E. Murphy (270865

112a. Edward J. Murray (253538), Edward Murray (553184). Patrick Murray (260070), Patrick Murray (901860).

113. Charles Neuweiler (597926), Claridge Neuweiler (803469).

114. Eugene New (995562), James New (851519), James New (248686), John P. New (253867).

115. Douglas Niblock (851520), John Niblock (081 42 6045), Kenneth Niblock (871402), Lester Niblock (771038), Thomas Niblock (959782).

116. John Nolan (982273), James A. Nolan (598244).

117. John Noone (839733), Michael R. Noone (784172), Michael Noone (867776), Patrick Noone (769856), Thomas Noone (850640).

118. George Norton, Jr. (620250), Robert Norton (982274), Edward K. Norton (577177), George Norton, Sr. (205627), Raymond Norton (695365), Kevin Norton (771306), Robert Norton (647481).

119. Joseph Nullett (803470), Joseph R. Nullett (405883), Ronald Nullet (885003).

120. James O'Callahan (851524), Jeremiah O'Callahan (405953).

121. Fred Oelschlagler (231539), Ronald F. Oelschlager (823239).

122. Alexander Omundsen (871408), Francis Omundsen (959786), Frank Omundsen (579551), James Omundsen (300752).

123. Geo. Pendergast (559224), Eugene Pendergast

(851530), Stephen Pendergast (093 40 6648), Stephen J. Pendergast (620285).

124. Charles Pettit (982276), Howard Pettit (167790), Joseph Pettit (572151).

125. Edward Podola (856235), John Podola (598156).

126. Thomas Powers (253748), Thomas Powers (803474).

127. Daniel Priest (763831), Frank Priest (559204).

128. John Probst (680011), Thomas Probst (901867). Peter Probst (959790).

129. Edward Purcell, Edward Purcell (877048), James Purcell (577170), John Purcell (695171), Joseph Purcell (598122), Joseph Purcell (231398), Thomas Purcell (577207).

130. John Radigan (851532), John Radigan (253824), Daniel Radigan (661597).

131. John Raphael (877418), Edmund F. Raphael (257541), William Raphael (771300).

132. Lawrence Redican (695476), Kenneth Redican (559217), William Redican (577227).

133. Charles Redstone (620243), Charles D. Redstone, Jr. (937841), George Redstone (669982).

134. James Reilly (236119), John Reilly (995566), John Reilly (620241), Matthew L. Reilly (572123).

135. Daniel Reynolds (552262), Dennis Reynolds (874849).

136. Arthur Robinson (205519), Richard Robinson (647489).

137. Daniel Robson (569336), Edward Robson (695437), John Robson (970844).

138. Eugene G. Rochler (598310), Frank Rochler (851534), Frank Rochler (260090).

139. Clifford Rosensteel, Sr. (236254), Clifford

(559266).

140. James Roskos (901868), William Roskos (305871)

141. Anthony A. Rowland (315111), John P. Rowland (551708), Martin J. Rowland (620278), William Rowland (551715), William Rowland (326487), Wm. J. Rowland (851536).

142. John Ryan (845536), John Ryan (874124).

143. Andrew Ryder (647428), George Ryder (346015), John Ryder (257608), Kevin Ryder (995568), Paul J. Ryder (901869).

144. William Saksen, Jr. (823167), William D. Saksen (127917).

145. Edmond Samson (829825), Edmond Samson (871430).

146. Albert G. Sander (217711), James P. Sander (346026), James Sander (695376), Joseph Sander (647421).

147. Frank Santafede (552260), Richard Santafede (871431).

148. Arthur Schembeck (661604), John Schembeck (559230), Louis Schembeck (217708), Paul Schembeck (871433).

149. Robert Schoepfer, Robert Schoepfer (982279).

150. Albert Schrag (695377), Albert Schrag (257576), Robert Schrag (620282).

151. Albert Schubert (874851), Lawrence Schubert (982280).

152. Jack Scoble (647554), John Scoble (976095).

153. John Sheeran, Sr. (205591), John J. Sheeran, Jr. (346041).

154. Eugene Shields (236241), John Shields (345978), Kenneth Sheilds (231442), Richard Shields (871437).

155. Fred Sibbald (247944), Hamilton Sibbald (124567), William Sibbald (647433).

156. Fred Staudenmaier (345975), Richard Staudenmaier

Pages A-878 through A-887 have been omitted intentionally.

(147912), Richard Staudenmaier (695382).

157. George Stelz (405915), George Stelz, Sr. (125773).

158. George T. Stephenson (260134), George R. Stephenson (803482), Henry Stephenson (181569), James Stephenson (236237), James Stephenson (598252), Joseph Stephenson (579512).

159. Anthony Suchan (598132), Anthony Suchan (814732), Donald Suchan (803484), Edward Suchan, Jr. (803485), Wm. E. Suchan, Jr. (552259).

160. Edward Sutter (315171), Harold Sutter (?05480), Harold Sutter (346038), Peter Sutter (771290), Peter Sutter, Jr. (224708), Victor Sutter (851548).

161. Kenneth Sweeney (803486), Warren Sweeney (995575).

62. Arthur Tampori (851549), Arthur Tampori, Sr. (40 54?), Raymond Tampori (982283).

163. Joseph Taylor (550028), Joseph Taylor, Jr. (838077), Victor Taylor (620307).

164. David Teaman (818966), James Teaman (315129), William Teaman (674074).

165. Hubert B. Tisdall (572192), Robert Tisdall (871449).

166. Hugh F. Tobin (830575), Thomas M. Tobin (861992), Walter Tobin (572177), Walter Tobin (901873).

167. Craig Tonkin (579494), Edward Tonkin (813234), Francis Tonkin (824590), Ronald Tonkin (871450).

168. Anton Trnka (620245), Lawrence Trnka (647485), Lawrence Trnka (870765).

169. Peter Tuite (851552), Peter Tuite (552265).

170. Edward Tulipane (127712), Fred F. Tulipane (125037), Sylvester Tulipane (147805).

171. Jerry Vaiana (970849), Philip Vaiana (553189).

172. A. Wm. Veith (257550), Charles Veith (845540), A-889 Donald Veith (695387), Hugh Veith (205655), Hugh Veith (598136).

173. Joseph Ventre (798024), Rosario Ventre (713497), Vincent Ventre (798025).

174. Edward B. Wagner (680162), George Wagner (181560), Henry M. Wagner (839756), Vincent Wagner (839757), William J. Wagner (680090).

175. Edward Walpole, James Walpole (577217), Joseph Walpole (553186), Lawrence Walpole (901876), Thomas Walpole (236197), Thomas F. Walpole (405732).

176. John T. Ward (858173), Kenneth Ward (871465).

177. James E. Wilkie (982286), Lloyd Wilkie (553143), Robert A. Wilkie (889444), William Wilkie (901879), William Wilkie (823197).

178. Charles Wirth (647502), Chas. B. Wirth (871473), Douglas Wirth (982287).

179. Eugene Wisniewski (823155), Michael C. Wisniewski (569247), Lawrence Wisniewski (871474).

180. Edward Wissenbach (901880), Edward R. Wissenbach (260129), William Wissenbach (345954), William Wissenbach (901881).

181. Fred Zimmerman (598182), George Zimmerman (695394), Louis Zimmerman (346044).

Yours, etc.

DENNIS R. YEAGER
E. RICHARD LARSON
423 West 118th Street
New York, New York 10027
(212) 866-8591

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al.,

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION, STEAMFITTERS LOCAL UNION NO. 638 OF U.A., et al.,

Defendants.

FURTHER RESPONSE TO REQUEST FOR ADMISSIONS

71 Civ. 847

Defendant, ENTERPRISE ASSOCIATION, STEAMFITTERS LOCAL UNION NO. 638 OF U.A. ("defendant" hereafter), by its undersigned attorneys, and pursuant to the direction of the Honorable Dudley B. Bonsal District Judge at the November 21, 1972 conference in the above-entitled case, makes the following statement in further response to plaintiffs' Request for Admissions which was received in the mail by defendant on October 11, 1972, and supplemented by the letter from plaintiffs' attorneys dated November 21, 1972. Pursuant to the aforesaid direction of Judge Bonsal, these responses are based upon the personal knowledge of certain officials of defendant, who reviewed the names listed in the Request for Admissions. The responses set forth below are true to the extent that they represent the best recollection of said officials. The individuals in the following numbered paragraphs of the Request for Admissions are related by blood or marriage to all the other individuals in said paragraph: ¶17, ¶19, ¶20, ¶21, ¶23, ¶32, ¶34, ¶40, ¶41, ¶42, ¶43, ¶44, ¶52, ¶58, ¶68, ¶72, ¶75, ¶79(a), ¶82, ¶84, ¶91, ¶94, ¶96, ¶99, ¶100, ¶102, ¶103, ¶105, ¶106, ¶108, ¶111, ¶112, ¶112(a), ¶113, ¶114, ¶115, ¶117, ¶119, ¶120, ¶121, ¶122, ¶125, ¶126, ¶127, ¶128, ¶129, ¶130, ¶131, ¶132, ¶133, ¶135, ¶136, ¶139, ¶140, ¶141, ¶143, ¶144,

¶147, ¶148, ¶149, ¶150, ¶153, ¶154, ¶156, ¶157, ¶158, ¶159, ¶160, ¶162, ¶164, ¶167, ¶168, ¶169, ¶170, ¶172, ¶173, ¶175, ¶177, ¶180, and ¶181.

Some relationship exists between some, but not all, of the individuals set forth within each of the following paragraphs, but the specific individuals who are related are not known: ¶1, ¶7, ¶11, ¶14, ¶16, ¶25, ¶31, ¶46, ¶47, ¶49, ¶53, ¶57, ¶59, ¶64, ¶81, ¶86, ¶88, ¶89, ¶90, ¶97, ¶109, ¶118 and ¶123.

The following individuals in the respective paragraphs are related to each other but not to the other individuals named in the respective paragraphs:

¶2. Andrew Arenholz (884950),
Arthur Arenholz, Jr. (620295),
Herbert J. Arenholz (315127)

¶6. Albert L. Bakay (569481),
Steven L. Bakay (405801)

¶8. William Barton, Sr. (814780),
William Barton (814779)

¶10. Arthur Berkey (886703),
Michael J. Berkey (671479)

¶12. Hugh J. Boilan (713486),
Hugh Boilan (995502),
Thomas Boilan (579518)

¶13. Arthur J. Bresnahan, Sr. (248638),
Raymond A. Bresnahan (315110)

¶18. Amedeo Colongelo (552201),
Renaldo Colongelo (569332)

¶45. Harry Eppel (224652),
Harry D. Eppel (674207)

¶62. Patrick Gray (124293),
Raymond Gray (260092)

¶63. Roy M. Gross (260158),
Roy Gross (884072)

¶74. Frank Hyland (224594),
Joseph Hyland (217539)

¶76. Howard Keenan (593179),
John Keenan (896181)

¶80. Charles Kenny (840897),
Charles Kenny (057 44 0956)

¶85. David Lack (367532),
Frederick Lack (202634)

¶98. John Malone -
Raymond Malone (645867)

¶101. John A. McAvinue, Jr. -
William J. McAvinue (405726)

¶110. James F. Mulligan (872811),
James A. Mulligan (257554),
Joseph G. Mulligan (695416),
Joseph P. Mulligan (885002),
Raymond Mulligan (25764)

¶124. Howard Pettit (167790),
Joseph Pettit (572151)

and

¶155. Fred Sibbald (247944),
Hamilton Sibbald (124567)

No relationships of blood or marriage are known to exist between or among any of the individuals listed within the following paragraphs: ¶3, ¶4, ¶5, ¶9, ¶15, ¶22, ¶24, ¶26, ¶27, ¶28, ¶29, ¶30, ¶33, ¶35, ¶36, ¶37, ¶38, ¶39, ¶48, ¶50, ¶51, ¶54, ¶55, ¶56, ¶60, ¶61, ¶65, ¶66, ¶67, ¶69, ¶70, ¶71, ¶73, ¶77, ¶78, ¶79, ¶83, ¶87, ¶92, ¶93, ¶95, ¶104, ¶107, ¶116, ¶134, ¶137, ¶138, ¶142, ¶145, ¶146, ¶151, ¶152, ¶161, ¶163, ¶165, ¶166, ¶171, ¶174, ¶176, ¶178 and ¶179.

Concerning the individuals set forth in the 8 paragraphs of the letter dated November 21, 1972 from Plaintiffs' attorneys, the individuals in the following paragraphs are related by blood or marriage to each other: ¶3, ¶4, ¶6 and ¶7. Concerning ¶1, Edward Cummings and Ed Cummings are related to each other but not to Thomas Cummings. Relationships of individuals listed in ¶5 and ¶8 are uncertain and unknown, respectively.

Yours, etc.

DELSON & GORDON

By _____
ERNEST FLEISCHMAN, a member of the firm
230 Park Avenue
New York, New York 10017

Re: Minority Indentured Into The Program

Indentured	Black	Spanish	Completed Training	Cancelled		
8-31-64	7	1	5-B	1-B	7-1-66	Appren. not interested
				1-B	9-29-66	Deceased
				1-S	2-27-69	Appren. not interested
6-23-67	2			1-B	9-22-67	Withdrew
				1-B	6-11-70	Appren. not interested
1-30-68	1	1		0		
9-17-68	4	1		0		
4-1-69	5	2		1-B	9-17-69	Withdrew
				1-B	6-30-70	Appren. not interested
3-16-70	1			0		
8-25-70	1			0		
6-15-71	2			0		
	23	5	5-B	7		

Note: 16 Apprentices in program at present (12- B 4- S)

/ 8-25-71 /

Apprenticeship Cancellations - contd.

Group	Apprentice	Book No.	Soc. Sec. No.	Indentured	Cancelled	Remarks
9	MILLER, Charles V.	851 507	057 28 7875	4-14-60	11-1-60	
9	McDERMOTT, Gerard J.	851 499	130 24 5978	4-14-60	4-11-61	
9	SULLIVAN, Eugene A.	851 545	121 28 6428	4-14-60	4-11-61	
9	BOZZONE, Ralph P.	851 424	107 30 6583	4-14-60	6-27-61	
9	BRENNAN, Patrick P.	851 426	131 30 3030	4-14-60	6-27-61	
9	COPE, Kenneth P.	851 437	134 32 3444	4-14-60	6-27-61	
9	McGLENAGHAN, William R.	851 496	131 28 5692	4-14-60	6-27-61	
9	TEAMAN, William H.	851 550	074 30 1245	4-14-60	6-27-61	
9	MORGAN, Thomas F.	851 512	036 34 1854	4-14-60	5-18-62	
9	DOYLE, VINCENT L.	851 449	113 26 5074	4-14-60	5-18-62	
9	O'DONNELL, John P.	851 526	121 28 1987	4-14-60	12-31-61	
10	Popp, John H.	871 416	307 34 5579	4-2-62	5-18-62	
10	Giles, Donald M.	871 326	113 28 5402	4-2-62	5-18-62	
9	LEAHY, Robert M.	851 421	090 28 2407	4-14-60	11-1-60	
9	GILMORE, Patrick J.	851 463	129 28 5303	4-14-60	11-1-60	

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Apprenticeship Cancellations - contd.

Group	Apprentice	Book No.	Soc. Sec. No.	Indentured	Cancelled	Remarks
10	Kolacki, Frank	871 363	090 30 7201	4-2-62	9-25-62	
9	Kerr, James J.	851 478	130 32 7606	4-14-60	6- -62	
10	Croke, Jeremiah P.	871 302	094 32 1829	4-2-62	12-1[illegible]-62	
[illegible]	Ward, Thomas M.	871 467	107 30 3016	4-2-62	12-11-62	
10	Jefferson, Tho[illegible] F.	874 846	086 30 8804	7-2-62	12-11-62	
10	King, Richard J.	871 360	073 36 0710	4-2-62	2-19-63	
10	Gordon, George M.	871 330	103 26 2345	4-2-62	5-21-63	
9	O'Brien, Kenneth P.	851 523	134 28 4469	4-14-60	5-21-63	
9	Hopkins, Terence T.	851 469	133 26 [illegible] 1468	4-14-60	6-11-63	
10	Hart, Michael E.	871 339	102 34 9016	4-2-62	5-26-64	
10	Malone, Lawrence T.	871 373	053 30 2012	4-2-62	5-26-64	
10[illegible]	Graham, William	871 331	052 34 3641	4-2-62	5-26-64	
x11	Kupres, James R.	884 981	090 32 222	3-21-63	5-26-64	
x11	Benson, Arthur R.	884 954	066 36 5305	3-21-63	5-26-64	
9	Walsh, Robert J.	851 555	130 24 3804	4-14-60	11-1-64	

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Apprenticeship Cancellations - contd.

Group	Apprentice	Book No.	Soc. Sec. No.	Indentured	Cancelled	Remarks
12	TORRES, James	901 874	069 34 3654	Aug. 31, 1964	12-16-64	[illegible]
10	Tuite, Edward J.	871 455	077 24 0839	4-2-62	5-18-65	Not Interested
x11	McAleer, William	884 990	128 32 8635	3-21-63	5-18-65	Not Interested
x11	Mahoney, John J.	884 988	119 34 2238	3-21-63	6- -65	Not Interested
x11	Mulligan, Joseph L.	885 003	085 36 1757	3-21-63	8-18-65	Deceased
x11	Ryan, William J.	885 014	071 22 2760	3-21-63	9- -65	Not Interested
[illegible]	Brady, Frank M.	901 832	129 36 8697	8-31-64	11- -65	Not Interested
10	Nolan, Martin W.	871 403	094 30 6960	4-2-62	6-1-66	Not Interested
12	Moore, Kenneth	901 859	095 32 2503	8-31-64	12-1-65	Not Interested
12	Torres, James	901 874	069 34 3447	8-31-64	2nd time 7-1-66	[illegible]
12	Clifton, Harold S.	901 836	104 32 1235	8-31-64	9-29-66	Sec Min. 9-29-66
12	Kennedy, Richard T.	901 854	097 36 1611	8-31-64	withdrew 9-29-66	" " "
12	Dean, Lawrence	901 844	139 34 1324	8-31-64	9-29-66	" " "
11	Casey, William J.	884 959	115 28 8803	3-21-63	9-29-66	" " "
12	Armstrong, Russell H.	901 829	113 34 4736	8-31-64	11-16-66	Not Interested
11	Tisdall, Donald R.	885 024	099 34 2471	3-21-63	12-13-66	Left to go on N.Y.C. Transit Pol
12	Culligan, Patrick J.	901 841	099 36 1138	8-31-64	7-1-67	Expelled from Union

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Apprenticeship Cancellations - contd.

Group	Apprentice	Book No.	Soc. Sec. No.	Indentured	Cancelled	Remarks
-10	✓ Ledden, James V.	871 369	131 34 8824	4-2-62	9-22-67	Not Interest
-10	McMahon, Robert C.	871 384	104 30 8331	4-2-62	9-22-67	Not Interest
x11	✓ Connolly, Walter	884 963	102 34 9908	3-21-63	9-22-67	Not Interest
x11	✓ Miller, Dennis J.	884 999	111 34 6774	3-21-63	9-22-67	going to col
13	✓ Kemp, William C.	959 773	133 34 1583	6-23-67	9-22-67	Not Interest Withdrew -
14	✓ Watts, Rowland	970 852	132 36 7199	1-30-68	4-30-68	Withdrew - Withdrew- Mo to Conn.
14	no file - not indentured O'Grady, Richard J.		988 36 8219	"	4-30-68	Withdrew - No enough of Mos
12	✓ Callan, Richard B.	901 834	102 34 7520	8-31-64	7-16-68	not interest
12	✓ McMahon, Robert C.	871 384	104 30 8331	4-2-62	9-13-68	Not interest
13	Moore, Kenneth	901 859	095 32 2503	8-31-64	2-27-69	
13	✓ FONtana, Raymond J.	959 764	128 32 1966	6-23-67	2-27-69	withdrew -to go- NYCPol.
15	✓ Cringle, Hugh	982 247	126 364325	9-17-68	2-27-69	withdrew
15	✓ Millman, Robert A.	982 266	125 42 2897	9-17=68	2-27-69	withdrew
x11	✓ McManus, John J.	884 994	110 34-5245	3-21-63	2-27-69	Deceased- Viet Vam

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Apprenticeship Cancellations - contd.

Group	Apprentice	Book No.	Soc. Sec. No.	Indentured	Cancelled	Remarks
16	✓Keane, John R.	995 539	098 34 6827	~~4-1-69~~ ~~3-27-69~~	6-13-69	Not interested- Withdrawment with Elec.progr.
15	✓Jahn, James D.,Jr.	982 255	056 36 2939	9-17-68	8-7-69	
16	✓Gaffney, Bernard A.	995 528	085 36 2910	4-1-69.	8-7-69	Not interested
13	✓Gobright, Robert J.	959 767	125 38 7752	6-23-67	9-10-69	withdrew-
16	✓Davis, Anthony E.	995 515	093 30 2654	4-1-69	9-17-69	See Min. 8-7-69
16	✓Signor, Robert W.	995 571	151 42 9305	4-1-69	11-13-69	Not interested
16	✓McMulla.., Lilan N.	996 940	116 42 8381	4-1-69	11-25-69	Not interested
11	✓McLaughlin, Richard J.	884 993	129 34 9015	3-21-63	11-25-69	Ret. from serv. not interested
16	✓McGinley, Wm. J.	995 552	090 42 5199	4-1-69	12-30-69	Withdrew going to college
13	✓Tober, Leon F.	959 793	265 58 5690	6-23-67	6-11-70	Enrolled from Union,Feb,1970
13	✓Keahon, Martin W.,Jr.	959 771	146 40 6716	6-23-67	6-11-70	Not interested withdrew
16	✓Ferris, Robert J.	995 524	101 42 5271	4-1-69	6-11-70	Not complying
16	✓Jones, John A.	995 537	082 40 0429	4-1-69	6-11-70	"
16	✓Menna, Robert	995 561	059 36 8903	4-1-69	6-11-70	"
16	✓Benedivenga,Thomas	995 497	064 36 3960	4-1-69	7-1-70	Not interested withdrew

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Appointments & Cancellations - cont'd.

Date	Appointee	Book No.	Soc.Sec. No.	Indentured	cancelled	Remarks
13	✓Morrison, Robert A.	959 778	101 40 0554	6-23-67	12-29-70	On NYC Fire Dept.
17	✓Rassman, Frederick L,Jr.	100 36 6864 =	same as	3-16-70	12-29-70	In college-withdrew
17	✓Reich, Daniel W.	same as -	132 42 8434	3-16-70	12-29-70	withdrew
17	✓Thompson, James E.	same as -	080 38 5221	3-16-70	12-29-70	withdrew
18	✓Laffey, William A.	same as -	072 38 4749	316-70	12-29-70	withdrew
18	✓Cerasoli, William C.	same as -	104 38 8166	3-16-70	12-29-70	withdrew
16	✓Lahey, Richard J.	995 547	125 38 9932	4-1 69	4-6-71	
17	✓Walter, Charles W.	same as -	072 38 1452	3-16-70	4=6-71	
12	✓McKnight, Kenneth J.	901 863	054 36 9654	8-31-64	5-6-71	not interested
19	✓McAuley, Mark A.	same as -	117 42 2306	1-4-71	5-6-71	Withdrew
19	✓McMannon,James P.	same as -	058 36 0595	1-4-71	5-6=71	withdrew

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RULE II.

RATE OF WAGES.

Section I. Regular time for a steamfitter except as noted in Section II of this Rule shall be paid for at the following rates:

From July 11, 1966, to December 31, 1966, inclusive, $5.46½ per hour or $38.25½ per day of seven hours, plus 6% Welfare, 6% Pension, 6% Vacation and .50 per hour Security.

(See Rules XVIII, XIX, XXI and XXII)

From January 1, 1967, to June 30, 1967, inclusive, $5.50½ per hour or $38.53½ per day of seven hours, plus 6% Welfare, 6% Pension, 7% Vacation and .50 per hour Security. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV.

(See Rules XVIII, XIX, XXI, XXII and XXIV)

From July 1, 1967, to December 31, 1967, inclusive, $5.54 per hour or $38.78 per day of seven hours, plus 6% Welfare, 7% Pension, 7% Vacation, .50 per hour Security and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV.

(See Rules XVIII, XIX, XX, XXI, XXII and XXIV)

From January 1, 1968, to June 30, 1968, inclusive, $5.67 per hour or $39.69 per day of seven hours, plus 6% Welfare, 7% Pension, 7% Vacation, .50 per hour Security and .03 Educational Fund for each and every hour worked.

In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV.

(See Rules XVIII, XIV, XX, XXI, XXII and XXIV)

From July 1, 1968, to December 31, 1968, inclusive, $5.79 per hour or $40.53 per day of seven hours, plus 6% Welfare, 7% Pension, 8% Vacation, .50 per hour Security and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV.

(See Rules XVIII, XIX, XX, XXI, XXII and XXIV)

From January 1, 1969, to June 30, 1969, inclusive, $5.98 per hour or $41.86 per day of seven hours, plus 6% Welfare, 7% Pension, 9% Vacation, .50 per hour Security and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV.

(See Rules XVIII, XIX, XX, XXI, XXII and XXIV)

The regular hours of labor shall be seven hours per day which is to be performed between the hours of eight (8:00) o'clock A. M., and four (4:00) o'clock P. M. Fractions of days shall be paid for at the same rate, but no steamfitter or apprentice shall be employed for less than two hours. The lunch period under this section shall be either one-half hour or one hour at the option of the employer and shall be between the hours of twelve (12:00) o'clock noon and one (1:00) o'clock P. M. No overtime shall be paid for labor performed during the regular working day.

Section II. The operation and/or maintenance of temporary heat from July 11, 1966 to December 31, 1966, inclusive, shall be paid for at the rate of $33.08 per shift of eight hours plus all of above noted fringe benefit payments.

From January 1, 1967, to June 30, 1967, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $33.34 per shift of eight hours plus all of above noted fringe benefit payments.

From July 1, 1967, to December 31, 1967, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $33.56 per shift of eight hours plus all of above noted fringe benefit payments.

From January 1, 1968, to June 30, 1968, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $34.34 per shift of eight hours plus all of above noted fringe benefit payments.

From July 1, 1968, to December 31, 1968, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $35.08 per shift of eight hours plus all of above noted fringe benefit payments.

From January 1, 1969, to June 30, 1969, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $36.32 per shift of eight hours plus all of above noted fringe benefit payments.

No steamfitter operating and/or maintaining temporary heat shall be employed for less than an eight hour shift.

Section III. Apprentices shall be paid a progressively increasing schedule of wages for five years based on the follow-

ing percentages of the wage rate payable to journeymen steamfitters, and subject to the provisions of Rule XX with respect to payments to Apprentices for attendance at classes:

1st year 40% of a journeyman steamfitter's rate of wage
2nd year 50% of a journeyman steamfitter's rate of wage
3rd year 60% of a journeyman steamfitter's rate of wage
4th year 70% of a journeyman steamfitter's rate of wage
5th year 85% of a journeyman steamfitter's rate of wage

RULE III.

RATE FOR OVERTIME AND HOLIDAYS.

Section I. Any work done between four o'clock (4:00) P. M. and eight o'clock (8:00) A. M., and on Saturday (with the exception stated in Rule I, Sections III and IV) Sunday, New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Columbus Day, Election Day, Armistice Day, Thanksgiving Day and Christmas Day, shall be paid for at double the rate for regular time, commencing at the hour at which the fittter reports for work by direction of the employer.

No overtime shall be paid for labor performed during the regular working day.

Section II. When it is not convenient to start work until between the hours of eleven o'clock (11:00) P. M., and four o'clock (4:00) A. M., then the fitter's time shall commence at eleven o'clock (11:00) P. M., and continue until said work is completed. Under these conditions no fitter shall receive less than one (1) day's pay regular time.

RULE XVII.

JOB STEWARDS.

Where the employer employs eight (8) or more units (as defined in Rule V) of Enterprise Association members on a job then the Members of Enterprise Association on the job shall select from one of such units a Job Steward who shall act in behalf of the interests of the Union and whose duties shall not interfere with the work he is employed to perform by his employer.

When the employer of a Job Steward has eight or more units working overtime on the job where the Job Steward is employed, the Job Steward and his partner shall be included in one of the units working overtime.

The employer agrees not to discriminate in any way against any person so designated as Job Steward, either due to his being designated or to his activities in behalf of Enterprise Association and its members.

RULE XVIII.

WELFARE FUND.

From July 11, 1966 to June 30, 1969, inclusive, all employers shall pay to The Steamfitters' Industry Welfare Fund six percent (6%) of the gross wages paid to journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, N. Y., before any deductions are made for withholding or other taxes. Such fund was established by an Agreement and Declaration of Trust, dated May 15, 1946, to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance

with the rules and regulations established by the trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this agreement be amended in accordance with its terms.

RULE XIX.

PENSION FUND.

From July 11, 1966 to June 30, 1967, inclusive, all employers shall pay to The Steamfitters' Industry Pension Fund six percent (6%), and from July 1, 1967, to June 30, 1969, inclusive, all employers shall pay to The Steamfitters' Industry Pension Fund seven percent (7%) of the gross wages paid to journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, N. Y., before any deductions are made for withholding or other taxes. Such fund was established by an Agreement and Declaration of Trust, dated November 1, 1950, to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this agreement be amended in accordance with its terms.

RULE XX.

EDUCATIONAL FUND.

From July 1, 1967 to June 30, 1969 all employers shall pay to The Steamfitters' Industry Educational Fund three (3¢) cents per hour for each and every hour worked by journeymen

and apprentice steamfitters employed in the City of New York, Nassau and Suffolk Counties, N. Y. Such Fund was established under date of August 14, 1952 and by Agreement and Declaration of Trust, dated May 1, 1960 to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the Trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this Agreement be amended in accordance with its terms.

Each apprentice will attend classes for eight (8) hours on one (1) day every other week in compliance with the requirements of said Educational Fund and the employer of each such apprentice will pay to the apprentice who attends such classes for the requisite eight (8) hours, a total of five (5) hours wages based on the following percentages of the wage rate paid to journeymen steamfitters:

1st year	—40% of a journeyman steamfitters rate of wage
2nd year	—50% of a journeyman steamfitters rate of wage
3rd, 4th and 5th years	—60% of a journeyman steamfitters rate of wage

RULE XXI.

VACATION PLAN.

In addition to the wages provided in Rule II, every employer shall from July 11, 1966 to December 31, 1966, pay to

every journeyman and apprentice steamfitter employed by him an additional wage equivalent to six percent (6%) of said steamfitter's or apprentice's total gross wages, from January 1, 1967 to June 30, 1968 pay to every journeyman and apprentice steamfitter employed by him an additional wage equivalent to seven percent (7%) of said steamfitter's or apprentice's total gross wages, from July 1, 1968 to December 31, 1968, pay to every journeyman and apprentice steamfitter employed by him an additional wage equivalent to eight percent (8%) of said steamfitter's or apprentice's total gross wages, and from January 1, 1969 to June 30, 1969, pay to every journeyman and apprentice steamfitter employed by him an additional wage equivalent to nine percent (9%) of said steamfitter's or apprentice's total gross wages pursuant to Rule II which additional wage, less any requisite withholdings or deductions therefrom as required by law, shall be paid to the trustees of the Steamfitters' Vacation Plan to be established for the account of the respective steamfitter or apprentice and in accordance with the appropriate rules and regulations to be established by such trustees; which payments shall be disbursed by said trustees only to the steamfitter or apprentice with respect to whom such payments have been made (less actual expense of formulating and administering the trust) as a vacation payment to said steamfitter or apprentice, and in accordance with such rules and regulations as may be adopted by the trustees in furtherance of the objectives set forth in this rule.

RULE XXII.

SECURITY.

All employers shall pay into The Steamfitters' Industry Security Benefit Fund (which was established by an Agreement and Declaration of Trust dated September 1, 1961 as a

trusteed fund jointly administered in compliance with law) from July 11, 1966 to June 30, 1969, inclusive, the sum of fifty (.50) cents per hour regular time and one-dollar ($1.00) per hour for overtime. Said sums (less actual expenses of administering the trust) shall be held by the trustees of said Fund for the benefit of the steamfitter or apprentice with respect to whom such payments have been made and applied in accordance with such plan as may be adopted by the Trustees. Such plan shall qualify under applicable provisions of the internal revenue code to insure deductibility of said payments from taxable income of the employer.

RULE XXIII.

SURETY COMPANY BOND.

Each employer shall furnish to the Trustees of The Steamfitters' Industry Welfare Fund, the Trustees of The Steamfitters' Industry Pension Fund, the Trustees of the Steamfitters' Industry Educational Fund and the Trustees of The Steamfitters' Vacation Plan and other security funds a bond in the aggregate amount of $2,500 guaranteeing payment to said Trustees jointly and severally of any and all amounts due from said employer to each or all of said Funds or Plan pursuant to the terms of this agreement. Such bond shall be in form and substance satisfactory to the said Trustees.

In the event the Trustees deem it necessary the amount of said Bond of any employer may be increased to a maximum of ten thousand dollars ($10,000).

RULE XXIV.

INDUSTRY PROMOTIONAL FUND.

Effective January 1, 1967 every employer shall during the term of this Agreement pay three cents (3¢) per hour to the

Section I. Regular time for a steamfitter except as noted in Section II of this Rule shall be paid for at the following rates:

From July 16, 1969, to December 31, 1969, inclusive, $6.31 per hour or $44.17 per day of seven hours, plus 6% Welfare, 7% Pension, 9% Vacation, and .50 per hour Security; and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV, and .01 per hour into the New York City Building and Construction Industry Board of Urban Affairs Fund for each and every hour worked, as per Rule XXV.
(See Rules, XVIII, XIX, XX, XXI, XXII, XXIV and XXV)

From January 1, 1970, to July 1, 1970, inclusive, $6.57 per hour or $45.99 per day of seven hours, plus 7% Welfare, 7% Pension, 10% Vacation, and .50 per hour Security; and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV, and .01 per hour into the New York City Building and Construction Industry Board of Urban Affairs Fund for each and every hour worked, as per Rule XXV.
(See Rules, XVIII, XIX, XX, XXI, XXII, XXIV and XXV)

From July 2, 1970, to December 30, 1970, inclusive, $6.655 per hour or $46.585 per day of seven hours, plus 7% Welfare, 13% Pension, 10% Vacation, AND .50 per hour Security; and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV, and .01 per hour into the New York City Building and Construction Industry Board of Urban Affairs Fund for each and every hour worked, as per Rule XXV.
(See Rules, XVIII, XIX, XX, XXI, XXII, XXIV and XXV)

From December 31, 1970, to June 30, 1971, inclusive, $7.115 per hour or $49.805 per day of seven hours, plus 7% Welfare, 13% Pension, 10% Vacation, and .50 per hour Security; and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV, and .01 per hour into the New York City Building and Construction Industry Board of Urban Affairs Fund for each and every hour worked, as per Rule XXV.
(See Rules, XVIII, XIX, XX, XXI, XXII, XXIV and XXV)

From July 1, 1971, to December 29, 1971, inclusive, $7.615 per hour or $53.305 per day of seven hours, plus 7% Welfare, 13% Pension, 10% Vacation, and .50 per hour Security; and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV, and .01 per hour into the New York City Building and Construction Industry Board of Urban Affairs Fund for each and every hour worked, as per Rule XXV.
(See Rules, XVIII, XIX, XX, XXI, XXII, XXIV and XXV)

(2)

From December [illegible], 1971, to June 30, 1972, inc[illegible]ive, $8.115 per hour or $56.805 per day of seven hours, plus 7% Welfare, 13% Pension, 10% Vacation, and .50 per hour Security; and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked as per Rule XXIV, and .01 per hour into the New York City Building and Construction Industry Board of Urban Affairs Fund for each and every hour worked, as per Rule XXV.
(See Rules, XVIII, XIX, XX, XXI, XXII, XXIV and XXV)

The regular hours of labor shall be seven hours per day which is to be performed between the hours of eight (8:00) o'clock A.M., and four (4:00) o'clock P.M. Fractions of days shall be paid for at the same rate, but no steamfitter or apprentice shall be employed for less than two hours. The lunch period under this section shall be either one-half hour or one hour at the option of the employer and shall be between the hours of twelve (12:00) o'clock noon and one (1:00) o'clock P.M. No overtime shall be paid for labor performed during the regular working day.

Section II. The operation and/or maintenance of temporary heat from July 16, 1969, to December 31, 1969, inclusive, shall be paid for at the rate of $38.32 per shift of eight hours plus all of above noted fringe benefit payments.

From January 1, 1970, to July 1, 1970, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $39.90 per shift of eight hours plus all of above noted fringe benefit payments.

From July 2, 1970, to December 30, 1970, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $40.43 per shift of eight hours plus all of above noted fringe benefit payments.

From December 31, 1970, to June 30, 1971, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $43.28 per shift of eight hours plus all of above noted fringe benefit payments.

From July 1, 1971, to December 29, 1971, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $46.37 per shift of eight hours plus all of above noted fringe benefit payments.

From December 30, 1971, to June 30, 1972, inclusive, the operation and/or maintenance of temporary heat shall be paid for at the rate of $49.46 per shift of eight hours plus all of above noted fringe benefit payments.

No steamfitter operating and/or maintaining temporary heat shall be employed for less than an eight hour shift.

Section III. Apprentices shall be paid a progressively increasing schedule of wages for five years based on the following percentages of the wage rate payable to journeymen steamfitters, and subject to the provisions of Rule XX with respect to payments to Apprentices for attendance at classes:

1st year 40% of a journeyman steamfitter's rate of wage
2nd year 50% of a journeyman steamfitter's rate of wage
3rd year 60% of a journeyman steamfitter's rate of wage
4th year 70% of a journeyman steamfitter's rate of wage
5th year 85% of a journeyman steamfitter's rate of wage

RULE III.

RATE FOR OVERTIME AND HOLIDAYS.

Section I. Any work done between four o'clock (4:00) P. M. and eight o'clock (8:00) A. M., and on Saturday (with the exception stated in Rule I, Sections III and IV) Sunday, New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, Columbus Day, Election Day, Armistice Day, Thanksgiving Day and Christmas Day, shall be paid for at double the rate for regular time, commencing at the hour at which the fittter reports for work by direction of the employer.

No overtime shall be paid for labor performed during the regular working day.

Section II. When it is not convenient to start work until between the hours of eleven o'clock (11:00) P. M., and four o'clock (4:00) A. M., then the fitter's time shall commence at eleven o'clock (11:00) P. M., and continue until said work is completed. Under these conditions no fitter shall receive less than one (1) day's pay regular time.

RULE XVIII.

WELFARE FUND

From July 16, 1969, to December 31, 1969, inclusive, all employers shall pay to The Steamfitters' Industry Welfare Fund six percent (6%), and from January 1, 1970, to June 30, 1972, inclusive, all employers shall pay to the Steamfitters' Industry Welfare Fund seven percent (7%) of the gross wages paid to journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, N. Y., before any deductions are made for withholding or other taxes. Such fund was established by an Agreement and Declaration of Trust, dated May 15, 1945, to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this agreement be amended in accordance with its terms.

RULE XIX.

PENSION FUND.

From July 16, 1969, to July 1, 1970, inclusive, all employers shall pay to The Steamfitters' Industry Pension Fund seven percent (7%), and from July 2, 1970, to June 30, 1972, inclusive, all employers shall pay to The Steamfitters' Industry Pension Fund thirteen percent (13%) of the gross wages paid to journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, N. Y., before any deductions are made for withholding or other taxes. Such fund was established by an Agreement and Declaration of Trust, dated November 1, 1950, to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this agreement be amended in accordance with its terms.

RULE XX.

EDUCATIONAL FUND.

From July 16, 1969, to June 30, 1972, inclusive, all employers shall pay to The Steamfitters' Industry Educational Fund three (3¢) cents per hour for each and every hour worked by journeymen and apprentice steamfitters employed in the City of New York, Nassau and Suffolk Counties, N. Y. Such Fund was established under date of August 14, 1952 and by Agreement and Declaration of Trust, dated May 1, 1960 to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the Trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this Agreement be amended in accordance with its terms.

Each apprentice will attend classes for eight (8) hours on one (1) day every other week in compliance with the requirements of said Educational Fund and the employer of each such apprentice will pay to the apprentice who attends such classes for the requisite eight (8) hours, a total of five (5) hours wages based on the following percentages of the wage rate paid to journeymen steamfitters:

1st year	—40% of a journeyman steamfitters rate of wage
2nd year	—50% of a journeyman steamfitters rate of wage
3rd, 4th and 5th years	—60% of a journeyman steamfitters rate of wage

RULE XXI.

VACATION PLAN.

In addition to the wages provided in Rule II, every employer shall from July 16, 1969, to December 31, 1969, inclusive, pay to every journeymen and apprentice steamfitter employed by him an additional wage equivalent to nine percent (9%) of said steamfitter's or apprentice's total gross wages, and from January 1, 1970, to June 30, 1972, inclusive, pay to every journeymen and apprentice steamfitter employed by him an additional wage equivalent to ten percent (10%) of said steamfitter's or apprentice's total gross wages pursuant to Rule II which additional wage, less any requisite withholdings or deductions therefrom as required by law, shall be paid to the trustees of the Steamfitters' Vacation Plan to be established for the account of the respective steamfitter or apprentice and in accordance with the appropriate rules and regulations to be established by such trustees; which payments shall be disbursed by said trustees only to the steamfitter or apprentice with respect to whom such payments have been made (less actual expense of formulating and administering the trust) as a vacation payment to said steamfitter or apprentice, and in accordance with such rules and regulations as may be adopted by the trustees in furtherance of the objectives set forth in this rule.

RULE XXII.

SECURITY.

All employers shall pay into The Steamfitters' Industry Security Benefit Fund (which was established by an Agreement and Declaration of Trust dated September 1, 1961 as a trusteed fund jointly administered in compliance with law) from July 16, 1969, to June 30, 1972, inclusive, the sum of fifty (.50) cents per hour regular time and one-dollar ($1.00) per hour for overtime. Said sums (less actual expenses of administering the trust) shall be held by the trustees of said Fund for the benefit of the steamfitter or apprentice with respect to whom such payments have been made and applied in accordance with such plan as may be adopted by the Trustees. Such plan shall qualify under applicable provisions of the internal revenue code to insure deductibility of said payments from taxable income of the employer.

RULE XXIII.

"PAYMENT OF FRINGE BENEFITS AND SECURITY COMPANY BOND"

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Effective July 16, 1969, every employer will pay the required fringe benefit payments stipulated in this Trade Agreement to the respective Fund Trustees no later than fourteen (14) calendar days following the close of the work week, i.e. for a work week ending on Wednesday the fringe payments must be paid no later than the second following Wednesday except where Trustees have, in writing, authorized other terms.

Upon failure to comply with the fringe benefit payment schedule the Trustees are authorized to:-

1) increase bonding requirement to a maximum of $10,000 or collect on bond,

2) assess a late charge at a prescribed rate of interest.

> Each employer shall furnish to the Trustees of The Steamfitters' Industry Welfare Fund, the Trustees of The Steamfitters' Industry Pension Fund, the Trustees of the Steamfitters' Industry Educational Fund and the Trustees of The Steamfitters' Vacation Plan and other security funds a bond in the aggregate amount of $2,500 guaranteeing payment to said Trustees jointly and severally of any and all amounts due from said employer to each or all of said Funds or Plan pursuant to the terms of this agreement. Such bond shall be in form and substance satisfactory to the said Trustees.
>
> In the event the Trustees deem it necessary the amount of said Bond of any employer may be increased to a maximum of ten thousand dollars ($10,000).

The Trustees have, at any time, the right to direct a payroll audit of a signator to this agreement for the purpose of verifying fringe benefit payments.

RULE XXIV.

INDUSTRY PROMOTIONAL FUND.

> Every employer shall during the term of this Agreement pay three cents (3¢) per hour to the Steamfitting Industry Fund of New York & Long Island for each and every hour worked by journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, New York. Such Fund was originated by an agreement dated July 6, 1966, to which the Contractors' Association and Enterprise Association were parties. Such Fund was established by a Declaration of Trust, dated September 30, 1966, and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the trustees of said Trust from time to time, and to be bound by and comply with all provisions of said Agreement and Declaration of Trust.

RULE XXV

URBAN AFFAIRS FUND

Effective July 16, 1969, and for the duration of this agreement, each employer shall pay through the Steamfitters' Industry Fund Office to the Trustees of the New York City Building and Construction Industry Board of Urban Affairs Fund one cent (.01) per hour for each and ev...

7. Effective July 9, 1968 and terminating June 30, 1969 the minimum wage rate of a service fitter shall be $4.80 per hour.

Effective July 1, 1969 and terminating June 30, 1970 the minimum wage rate of a service fitter shall be $5.05 per hour.

Effective July 1, 1970 and terminating June 30, 1971 the minimum wage rate of a service fitter shall be $5.30 per hour.

The following minimum wage rates shall apply for first, second and third year men:

First year man.....50% of journeyman's wages

Second year man.....60% of journeyman's wages

Third year man .....70% of journeyman's wages

8. It is agreed that the Employer or his representative will notify employees before quitting time, the day prior, if he has no work for them to perform the following day. If the Employer fails to give such notice and employees report to the office or shop ready for work and are not placed at work, then such employees shall receive one day's pay at the regular wage rate plus the daily rate for use of his auto if he is required to furnish same in connection with his employment. It is further agreed that employees placed at work on a Saturday, Sunday or legal holiday shall receive a minimum of eight hours' pay at the aforementioned overtime wage rate, plus the daily rate for the use of auto if instructed by Employer to furnish it in connection with the work he is performing.

It is further agreed that employees who are instructed to report for work at the office, shop or job on a Saturday, Sunday or legal holiday, and are not placed at work, shall receive one day's pay of eight hours at the regular single time wage rate, plus the daily rate for use of his auto if he was instructed to furnish it in connection with the particular work he was to perform on a Saturday, Sunday or legal holiday. It is agreed that Employer shall notify employees the day prior if use of auto is not required.

4. Employees working outside the radius as described in Section 3 of this Article who are ordered to travel after regular working hours in order to report for work at 8:00 A.M. the following day shall be paid at the rate of time and one-half for time consumed in traveling from the extreme point of the radius described in said Section 3 to the job, or for time consumed in traveling from the job to the extreme point of said radius, and the auto allowance described in Article V, Section 11 shall apply in such cases.

ARTICLE VIII.

1. All employees covered by the terms of this Agreement who have worked for the same Employer six (6) months in any consecutive twelve month period shall receive a vacation of one week with pay.

2. All employees covered by the terms of this Agreement who have worked for the same Employer twelve (12) months in any consecutive twelve month period shall receive a vacation of two weeks with pay.

3. All employees who have been employed one year or more by the same Employer and who leave or are discharged prior to the period when they would have been entitled to their next vacation, shall be paid accrued vacation money of one day's pay for each twenty-six regular work days which they have worked after the expiration of the six month or twelve month period.

4. An employee will not be considered absent from work insofar as continuity of employment is concerned, in the following instances:

Proven illness.

Jury duty.

Temporary military or naval training service.

An agreed leave of absence.

5. The vacation period for employees engaged in stoker or oil burner work shall be between May 15th and September 15th or as mutually agreed upon.

ARTICLE XIV

The Employer shall furnish Blue Cross Hospital Benefits and Blue Shield Expanded General Medical Benefits (Identification Number G-01 for individuals or N-01 for family) to cover all employees and their wives and unmarried children under 19 years of age. These benefits not to apply to a new employee until he has been employed for sixty (60) days.

The Employer shall pay ten (.10) cents per hour per employee to the Service Fitters Welfare Trust Fund to provide; (1) a Major Medical Policy to cover each employee, his wife and unmarried children under 19 years of age; (2) a Group Life Insurance Policy and (3) a Weekly Indemnity Benefit.

These benefits not to apply to a new employee until he has been employed for sixty (60) days.

ARTICLE XV

The Employer shall pay to the Service Fitters Pension Trust Fund twenty (.20) cents per hour per employee for regular time work performed.

This plan not to apply to a new employee until he has been employed for sixty (60) days.

ARTICLE XVI

Should any part of this agreement be held to be illegal by a Court of competent jurisdiction or other governmental agency, such part shall immediately be eliminated but shall not otherwise affect the validity or enforceability of any other part.

of the work of Shop Men, Pipe Machine Operators and Fabricators within thirty (30) days following the beginning of such employment or the effective date of this Agreement, whichever is the later, provided the employer has reasonable ground for believing that membership is available to such employees on the same terms and conditions generally applicable to other members and that membership is not denied or terminated for reasons other than the failure of the employee to tender the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership.

2. It is further agreed that employers shall be at liberty to employ and discharge whomsoever they see fit; and employees shall be at liberty to work for whomsoever they see fit.

3. It is also agreed that during the term of this Agreement the Fabricators and Supply House Employees Metal Trades Branch shall accept into its membership such men as are recommended for membership by the employers and acceptable to said Metal Trades Branch.

ARTICLE VI

1. New employees who have had no experience in the work covered by this Agreement shall be paid Two Dollars ($2.00) per hour during their first year of employment. Those presently employed with less than one (1) year of employment will be paid $2.20 per hour.

2. Effective August 4, 1970 and terminating June 30, 1971, all employees having one or more years experience shall receive a wage increase of thirty-five cents (.35) per hour and the minimum wage rate shall be $4.20 per hour.

3. Effective July 1, 1971 and terminating June 30, 1972, all employees having one or more years experience shall receive a wage increase of thirty-five cents (.35) per hour and the minimum wage rate shall be $4.55 per hour.

4. Effective July 1, 1972 and terminating June 30, 1973, all employees having one or more years experience shall receive a wage increase of thirty-five cents (.35) per hour and the minimum wage rate shall be $4.90 per hour.

5. Should employers employ members of Enterprise Association Steamfitters Local Union 638 and have entered into a contract with the above local union, then such employees are not included herein.

ARTICLE VII

1. It is understood and agreed that nothing in this Agreement shall conflict with the existing agreement between Mechanical Contractors Association of New York, Inc., and Enterprise Association Local Union No. 638 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada.

year, however, if mutually agreeable to employer and employee, a vacation may be taken at any other time during the year.

ARTICLE IX

1. It is agreed that the signatories to this Agreement will strictly observe all of its terms, and it is further agreed that if the Metal Trades Branch of Local Union No. 638 grants more advantageous terms affecting any part of this Agreement to anyone, then the Agreement shall be immediately amended to include such terms.

2. It is further agreed that any dispute concerning the terms, meaning or application of this Agreement shall be referred for adjustment to a committee consisting of an authorized official of each of the signatories to this Agreement. In the event this committee can not adjust such dispute within five days, the matter shall be referred to the New York State Mediation Board. If, then, the matter cannot be settled by mediation, it is agreed that the New York State Mediation Board will appoint an impartial arbitrator to render a decision.

ARTICLE X

Shop Hands Welfare Plan

1. The Employer shall furnish Blue Cross Hospital Benefits and Blue Shield Expanded

General Medical Benefits (Identification number G-11 for individuals or N-11 for family) to cover all employees and their wives and unmarried children under 19 years of age and same to be paid for by the employer.

2. The Employer shall pay five (.05) cents per hour per employee to the Shop Hands Welfare Trust Fund to provide a Major Medical Policy to cover each employee, his wife and unmarried children under 19 years of age.

3. The Employer shall pay five (.05) cents per hour per employee to the Shop Hands Welfare Trust Fund to provide a group life insurance policy benefitting each employee.

4. These benefits not to apply to a new employee until he has been employed for thirty (30) days.

ARTICLE XI

Pension Plan

All employers shall pay to the Shop Hands Pension Trust Fund fifteen (.15) cents per hour per employee for regular time work performed.

This plan not to apply to a new employee until he has been employed for thirty (30) days.

4. The Apprenticeship Program

Interrogatory 4A

As to each class of apprentices formed from July 2, 1965 to the date of the answer to this Interrogatory indicate:

(1) whether or not the members of such class were required to have completed a specific level of formal education and, if so, indicate what level,

(2) whether or not the members of such class were required to pass a written test and, if so, indicate

(a) the name of the test and the names of any subdivisions of the test;

(b) the person or entity that conducted the test;

(c) whether or not such test was subjected, by any person or entity, to a study of its validity as a test of the abilities of

(i) steamfitters;

(ii) persons wishing to become steamfitters and if so, as to either, identify the person or entity that conducted such study and indicate whether or not such study is in writing and identify such writing;

(d) the number of

(i) whites;

(ii) Blacks

(iii) Spanish-surnamed Americans

who took such test

(e) the number of

(i) whites;

(ii) Blacks;

(iii) Spanish-surnamed Americans who passed the test.

(3) whether or not the members of such class were required to complete a specific period of time as apprentices prior to completion of the apprenticeship program and, if so, the length of such period of time;

(4) whether or not the members of such class were required to pass a physical examination;

(5) whether or not the members of such class were required to take part in an oral interview and, if so, indicate:

(a) the name of the person or persons who conducted such interview;

(b) the criteria by which applicants were judged in such interview.

Answer to Interrogatory 4A

(1),(2)(a)(b)(d) and (e) See Appendix A to these answers.

(2)(c) The written examination required of applicants for admission to the Apprenticeship Program has not been specifically validated as a test of the abilities of steamfitters or persons wishing to become steamfitters.

(3) The apprenticeship program requires a five year period of participation for completion.

(4) Prior to indenture, each applicant is required to submit to and pass a physical examination.

A-919

JAC statement
Exhibit 6

STATE OF NEW YORK
DEPARTMENT OF LABOR
DIVISION OF MANPOWER

STATE OFFICE BUILDING CAMPUS
ALBANY, N.Y. 12226

ADDRESS REPLY TO:
Bureau of Apprentice Training

November 21, 1966

Mr. Howard Kerr
Director of Apprentices
Steamfitters JAC of New York City
Local 638
75 East 45th Street
New York, New York

Dear Mr. Kerr:

You will find herewith a copy of the statement, approved as noted, which you submitted in compliance with the New York State regulations on non-discrimination in registered apprenticeship programs. Of the 2 copies that you submitted, one will be kept on file in the Central Office, Albany, and the other in the District Office files. Enclosed also are provisions applicable to approved fees; your statement was noted accordingly.

Having obtained approval of your program, you may recruit and appoint apprentices in accordance with the standards and procedures described in your compliance statement. Experience may suggest the desirability of modification of your standards and procedures. Any modifications require the advance approval of the Industrial Commissioner, and our field staff is available to assist you in working out appropriate modifications.

Procedures in the selection of apprentices are very much in the public eye. With or without justification, your practices may be subject to criticism or challenge. Such challenges, to the degree to which they are not resolved locally, may be carried to the State Commission for Human Rights by parties in interest. To assure non-discrimination in selection will require good faith and vigilance on the part of all concerned.

Sincerely yours,

James R. Egan
Administrator of Apprentice Training

cc/ Mr. Horwitz
New York D.O.

A-920

STATE OF NEW YORK

DEPARTMENT OF LABOR

DIVISION OF MANPOWER

STATE OFFICE BUILDING CAMPUS
ALBANY, N. Y. 12226

November 21, 1966

PX Filed
3-22-72
PG (KKKA)

Mr. Howard Kerr
Director of Apprentices
Steamfitters JAC of New York City
Local 638
75 East 45th Street
New York, New York

Dear Mr. Kerr:

You are the sponsor of an apprentice training program registered with the New York State Bureau of Apprentice Training.

Because your standards and procedures for compliance with the Commissioner's Regulations on Non-Discrimination have been approved, we call your attention to Section 600.4(f) Appointment of Apprentices under the Apprentice Training Regulations. The first sentence of paragraph (f) reads, "After September 1, 1964, the program sponsor shall, prior to the establishment of each applicant list, publicly disseminate full information about the availability of apprenticeship opportunities prior to the time of application, and allow a reasonable period of time for new applicants to apply and former applicants to reapply for apprenticeship".

In reviewing the compliance standards and procedures which have been approved, we find a large majority of sponsors allow from 30 to 60 days for applicants to file for apprenticeship but a few sponsors have allowed as little as 12 days.

Unless a sponsor has a special reason for a period of less than 30 days for applicants to file for apprenticeship, we interpret the requirements of "a reasonable time" as being at least 30 days which sponsors should allow for applications to be filed.

Sincerely yours,

James R. Egan
Administrator of Apprentice Training

cc/ Mr. Horwitz
New York D.O.

JOINT STEAMFITTING APPRENTICESHIP COMMITTEE
of
The Steamfitters' Industry Educational Fund
75 East 45th Street, Room 3000
New York, New York 10017

JUL 10 ...

Subject: Statement of compliance with the regulations on non-discrimination in registered apprenticeship programs

Mr. Harry A. Moss, Jr. Director
Bureau of Apprentice Training
State Office Building # 12
State Campus
Albany, New York 12226

Dear Sir:

As the sponsor of an apprenticeship program, we recognize that under Section 296 of the Executive Law of the State of New York, all qualified persons shall have equal opportunity in apprenticeship training, and we agree to adhere to the standards and procedures in the Apprentice Training Regulations on Non-Discrimination issued by the Industrial Commissioner, effective September 1, 1964, in accordance with Section 811 of the Labor Law.

The following procedures and standards will be used in the recruitment, selection, and employment of apprentices:

A. Notification Requirements - Recruitment of Applicants

1. Public notice of apprentice training opportunities will be given each time new apprentices are to be recruited.

2. This notice will be:

   a. Posted at the normal place of business.

   b. Given to the following public agencies:

      (1) District Office of the N.Y.S. Bureau of Apprentice Training.

      (2) Local Board of Education.

      (3) Local Office of the New York State Employment Service.

3. This notice will contain the following information:

   a. Estimated number of apprentice job openings to be filled.

   b. Eligibility requirements.

   c. Where applications may be obtained.

   d. When applications are to be submitted.

B. Minimum Standards

1. The objective standards and procedures, which are attached, will be used in the recruitment, evaluation and selection of each apprenticeship candidate.

2. These standards will be furnished to each applicant prior to the time he is called upon to demonstrate his qualifications.

3. Candidates will be selected for appointment as apprentices in order of rank determined as follows:

   a. A minimum qualifying score for admission to the apprenticeship list will be established prior to the evaluation of candidates.

   b. Each candidate will be evaluated and rated on each of the qualifications to be evaluated.

   c. The individual scores will be added to obtain a total score for each candidate.

   d. Each candidate with a minimum qualifying score or greater will be ranked on the basis of his total score. The candidate obtaining the largest score will receive rank position 1, and so forth.

4. Additional or replacement apprentices, selected after commencement of the term of an apprenticeship program, will be selected in order of rank from the list and required notifications given.

C. Notification to Applicants

(Will be sent by first class mail. A Certificate of Mailing will be obtained from the Postmaster showing the name and address of each applicant notified)

1. At least ten days prior to the time when tests and/or interviews are to be held, each applicant will be notified in writing that:

   a. He does meet the initial minimum qualifications, the time and place to report for tests and/or interview, and the qualifications on which he will be evaluated, or:

   b. He does not meet the initial minimum qualifications and the reasons why.

2. At least ten days prior to the start of the term of apprenticeship, each applicant who has met the initial minimum requirements will be notified in writing of the following:

   a. Whether or not he has qualified.

   b. If qualified, his standing on the apprenticeship list.

   c. Whether or not he is appointed as an apprentice.

   d. If not appointed, the reasons for not being appointed.

   e. Applicants' right to register a complaint within 90 days to the State Commission for Human Rights if any discrimination based on race, creed, color or national origin was involved in the selection processes.

RULE ON FEES

APPROVABLE FEES IN COMPLIANCE WITH 12 NYCRR, SECTION 600, THE REGULATIONS OF THE NEW YORK STATE DEPARTMENT OF LABOR ON NON-DISCRIMINATION IN THE RECRUITMENT AND EMPLOYMENT OF APPRENTICES IN REGISTERED APPRENTICESHIP PROGRAMS.

Fees are approvable, as follows:

(a) In no instance may aggregate fees exceed $15, except for that portion of the medical fee, if any, which exceeds $5.

(b) An application fee of up to $5.

(c) The fee for a medical examination which is conducted by a physician designated by the sponsor should not be normally in excess of what the physician actually charges, up to a maximum of $5. If the sponsor contends that more is justified, a written request must be made of the Bureau for a special adjudication.

(d) Aptitude test fees up to $10 may be approved to the extent that they are the actual charges to the sponsor by the testing agency.

c. No applicant [illegible] shall be passed over [illegible] ment because of unavailability unless he fails to respond in seven days after notice has been delivered.

A-924

D. Records Subject to Review

1. The following records will be kept for two years, or for the life of the apprenticeship list, whichever is greater:

   a. Records showing that appropriate public notice has been made.

   b. Records showing all applications received.

   c. Records of the complete selection process, including standards used, evaluations made, and ranking of each applicant.

   d. Records of notification of standing to each applicant.

E. Non-Discrimination After Employment

1. After appointments have been made, there shall be no discrimination in apprenticeship including, but not limited to, job assignment, promotion, lay-off or termination, rates of pay or other forms of compensation, or conditions of work.

During the past two years, this program has had an average of 350 apprentices in training at any one time and contemplates having [illegible] for the foreseeable future.

Signature of the J.S.A.C. Chairman

Signature of the J.S.A.C. Co-Chairman

Address

Date July 12 1966

A-925

The Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Educational Fund, Local Union No. 638, and Mechanical Contractors Association of New York, Inc. is presently accepting applications for an estimated 50 apprentice training positions in the occupation of steamfitting.

There will be _____ applications issued for this opening.

If you are interested in taking advantage of this training opportunity and meet the following qualifications, you are eligible to apply.

P.K.B. 11-22-71 (S) (KAAA)

MINIMUM QUALIFICATIONS

Age
Not before 18th birthday and not after 24th birthday. Age of applicants, who served in Armed Forces, are extended for each year of service but not to exceed 28th birthday. Veteran must have an honorable discharge.

Education
High School Diploma, or Equivalency Diploma as recognized by local school authorities.

Residence
Must be a resident of the Metropolitan area for the three years preceeding the date of application.

Employment History - Indicate previous employers, duties, salary, etc.

Physical Condition
Be physically able to perform the work required as determined by a Doctor selected by the Joint Steamfitting Apprenticeship Committee. Cost of examination to be paid by applicant.

Aptitude
Ability to pass aptitude tests administered by the New York University Testing Service or other equal testing service. Cost of test to be paid by applicant.

Citizenship
Must be a citizen of the United States or having officially filed a Declaration of Intent, (Federal Immigration and Naturalization Service form No.N300).

Other
Must submit a notarized statement signed by applicant certifying that he does not belong to any organization on the Attorney General's list of subversive organizations.
Must submit a certificate given by the local police department attesting to the applicant's lack of a criminal record.

Application Forms May Be Obtained At: _____

_____

All Applications Must Be Postmarked Not Later Than _____

FEES REQUIRED:
~~$5.00 Application fee must be submitted with application. Payable by a certified check or money order.~~
$10.00 Medical Examination fee.
$10.00 Aptitude Test fee.

The above fees are not returnable in the event that applicant fails to be appointed as an apprentice.

(Page 4)

This notice to be given to:
1. District Office of the N.Y.S. Bureau of Apprentice Training.
2. Local Board of Education.
3. Local Office or the N.Y.S. Employment Service.

And posted at: Normal place of business of the J.S.A.C. And given to such applicant at the issuing office, after he has signed a receipt for an application form.

* FEE Requirements should be removed from all literature effective 7-21-1964

Name_____ (last) (first) (middle)

Address_____ Years Months (no. long at this address)

Date of Birth_____ Age_____ Soc. Sec. No._____

Telephone No._____ Height_____ Weight_____

Graduated from_____ High School_____ (Avg. mark for last year in H. S.)

College or Technical_____ (school) (length of time)

Parent or Guardian_____ (name) (address)

Citizenship: American_____ Naturalized_____ Filed form N 300_____

Married or Single_____ Dependents_____

Are you willing to submit to a Physician's Examination?_____

Military Status and/or Type of Discharge_____

REFERENCES:

1. This application must be accompanied by letters from two vouchers.
2. Each voucher must also sign the application.
3. The voucher may be a responsible person who is testifying that to his knowledge the applicant is of good moral character.
4. A photostatic copy of High School Diploma, or High School Equivalency Diploma.
5. A photostatic copy of discharge from the United States Armed Forces.
6. A photostatic copy of Birth Certificate.
7. Must submit a certificate given by the local police department attesting to the applicant's lack of a criminal record.

Name of Voucher_____ Address_____

Name of Voucher_____ Address_____

If my application is accepted, I agree to comply with terms and conditions of the standards of the Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Educational Fund, Local Union No. 638, and Mechanical Contractors Association of New York, Inc.

Approved by the Joint Steamfitting Apprenticeship Committee

Signed_____ (applicant)

Chairman_____

Co-Chairman_____ Signed_____ (Parent or Guardian, if applicant is under 21 years of age)

Date_____ Date_____

A-927

ITEM 18(b)(c): If you never held a job indicate this information. List the indicated information for all jobs you have held. If you are now working list information regarding your present job. Reason for terminating jobs must be included. Complete all information requested. If space is insufficient, attach separate sheet. List any jobs during vacations from school.

Employers Name & Address	Title and Duties	Salary	Date Started	Date Left	Reason for Leaving
		Start: $ Leaving: $			
		Start: $ Leaving: $			
		Start: $ Leaving: $			
		Start: $ Leaving $			
		Start: $ Leaving: $			
		Start: $ Leaving: $			

Signed _____ (Applicant)

Date _____

Page 6

POLICE RECORD: List below, giving all detailed information, any police record that you have. List each arrest, the court, the disposition, and whether found guilty or not. It is not necessary to list minor traffic violations. This information must be accurate and complete. Any information which is withheld will be cause for immediate dismissal from the Apprentice Program. If none, say "none".

Name and Address of Police Station or Court	Date	Offense	Outcome

Signed_____
(applicant)

Date_____

STATE OF NEW YORK)
: SS:
COUNTY OF)

A-929

, being duly sworn

deposes and says:

That he resides at _____
(Street)

_____
(Borough) (City and State)

That he is the person who has made the within application for admission to apprenticeship training under the training program administered by the Joint Steamfitting Apprenticeship Committee of Steamfitter's Local Union No. 638 and Mechanical Contractors Association of New York, Inc.

That he is not, and has never been, a member of the Communist Party nor a member of any other party or group which advocates the overthrow of the United States by force.

That he makes this affidavit for the purpose of inducing the Joint Steamfitting Apprenticeship Committee to accept and act upon his application for admission to the apprenticeship training program.

SWORN to before me this
day of 196 .

_____
Notary Public

Signed _____
(applicant)

I authorize investigation of all the statements contained in this application. I understand that misrepresentation, distortion, or omission of the facts called for in this application, is cause for immediate dismissal at any time from the Apprenticeship Program of Steamfitters' Local Union No. 638, and Mechanical Contractors Association of New York, Inc. Further, I understand and agree, that if I am accepted into the Apprenticeship Program, that my employment is for no definite period and may be terminated at any time without any previous notice. I certify that the information given in my application is correct and true.

I agree that all of the decisions of the Joint Steamfitting Apprenticeship Committee shall be final and binding on me, and I shall comply with all terms and conditions set by the Joint Steamfitting Apprenticeship Committee.

In the event of my appointment to apprenticeship training, nothing deriving from such appointment shall be deemed or construed to vest in me any rights or remedies against any employer or against the Joint Steamfitting Apprenticeship Committee or any of its members, or against Steamfitters' Local Union No. 638, and Mechanical Contractors Association of New York, Inc., and I agree that my rights and remedies shall be limited to the right to receive wages for hours actually worked.

Signed_____
(applicant)

Signed_____
(Parent or Guardian if applicant is under 21 yrs. of age)

Date_____

Applicants, who satisfy the preliminary requirements for entrance into the Joint Steamfitting Apprenticeship Training Program of Steamfitter's Local Union No. 638, and Mechanical Contractors Association of New York, Inc., will be eligible for aptitude tests given by the New York University Testing Service or other equal testing service.

A minimum score of 50 must be attained in all subjects given on aptitude tests.

The time for the tests will be arranged by the Joint Steamfitting Apprenticeship Committee. The $10.00 fee to be paid by the applicant to the Joint Steamfitting Apprenticeship Committee.

Applicants must also submit to a physical examination by a Doctor selected by the Joint Steamfitting Apprenticeship Committee. The fee to be paid by the applicant to the Joint Steamfitting Apprenticeship Committee.

...R APPLICATION INTO THE JOINT STEAMFITTING ...ING TRAINING PROGRAM OF STEAMFITTERS LOCAL UNION NO. ..., ...MECHANICAL CONTRACTORS ASSOCIATION OF NEW YORK, INC.

A-932

DOCTOR'S STATEMENT

This doctor's statement must be filled in completely.

LABORATORY EXAMINATION

TEST	RESULT
Complete Blood Count	
VDRL	

X-RAY EXAMINATION

TEST	RESULT
Chest X-Ray	

GENERAL PHYSICAL EXAMINATION

TEST	RESULT
1. Eyes (Snellen Test)	
2. Hearing	
3. Blood Pressure	
4. Reflexes	
5. Hernia, If any, Type	
6. Has applicant ever been treated for Drug Addiction, a convulsive disorder, epilepsy, fainting or dizzy spells, or any condition which caused unconsciousness?	
7. Has applicant ever been treated for a heart ailment?	
8. Has applicant any physical disability or has he suffered the loss of the use of a leg, hand, foot or eye?	
9. Has applicant had any mental illness for which he had been confined to any hospital or institution?	
10. Is it necessary for applicant to wear glasses or contact lenses?	
11. In your opinion, is this applicant physically and neurologically fit for this type of work?	
12. Objective Findings	

Physician's Signature _____

Address _____

Phone _____

A-933

QUALIFICATIONS AND EVALUATION

Steamfitting Trade

Of: _____
Name of Candidate

_____
Address

	Maximum Points Allowable	Score
Total	90	
APTITUDE		
Measured through test administered by the New York University Testing Service, or other equal testing service. Test results will be converted to the 90 points scale on a proportional basis		
Total	10	
PERSONAL TRAITS (Evaluated by interview)		
Personality characteristics important in apprenticeship	2	
Ability to communicate.	2	
Willingness to accept obligation of apprenticeship	2	
Ability to reason and comprehend	2	
Interest and motivation	2	
TOTAL ALLOWABLE POINTS	100	

*TOTAL SCORE

MINIMUM QUALIFYING SCORE 55 65

RANK _____

Evaluated by: _____
(Signature)

_____
(Date)

Sponsor: Joint Steamfitting Apprenticeship Committee of Steamfitters' Local Union No. 638, and Mechanical Contractors Association of New York, Inc.

(To be filled out by the Joint State Affecting Apprenticeship Committee and mailed to each applicant after obtaining a Certificate of Mailing from the Postmaster).

A-934

NOTIFICATION OF STATUS

To:_____
Name of Candidate

_____
Address

Your application for apprenticeship has been received.

You do not meet the minimum qualifications of

Age_____

Education_____

Citizenship_____

Physical Condition_____

Non Communistic Affidavit_____

Residence_____

Police Record_____

Aptitude_____

Employment History_____

Honorable Discharge_____

Other_____

You appear to meet the initial minimum qualifications and are to report to:

_____
(location)

on_____ For TESTS.
(date) INTERVIEW.

Your selection as an apprentice will be determined on the basis of your QUALIFICATIONS and EVALUATION RANK.

If you believe your failure to qualify was caused by discrimination based on race, creed, color, or national origin, you may file a complaint within 90 days, with the State Commission for Human Rights.

Joint Subcommitting Apprenticeship
Committee_____

NOTIFICATION OF STANDING

A-935

To: _____
Name of Candidate

_____
Address

Your Score_____

The following checked items indicate your status:

You fail to qualify for admission to the apprenticeship list because you - -

Failed to take the required tests.

Failed to appear for an interview.

Failed to achieve minimum qualifying score.

Other:_____
(Specify)

_____

You qualify for admission to the apprenticeship list and your rank is - -

You are not appointed at this time because there are _____ apprentice positions available, and these positions will be filled in order of rank.

You are officially appointed as an apprentice and you are to report to:

_____
Name

_____
Location

on_____
Date

If you do not report on this date, or contact us within 7 days after delivery of this notice, we will assume that you do not wish to accept this appointment.

If you believe your failure to qualify was caused by discrimination based on race, creed, color, or national origin, you may file a complaint within 90 days, with the State Commission for Human Rights.

Joint Steamfitting Apprenticeship
Committee

_____

A-936

JAC Steamfitting Ind...

IMPORTANT

No 513

PK D 10
3-22-72
PD
(Kerr) 6 1975

APPLICATION MUST BE RETURNED IN THE ENCLOSED ENVELOPE

RETURN:

Apprenticeship Application Forms 1 2 3 4 5 with the required fees of $10.00 for the Aptitude Test and $10.00 for the Medical Examination. Also with the other necessary documents. (See references on Form 1).

NOTE:

The above fees are not returnable in the event that the applicant fails to report for the Aptitude Test and Medical Examination.

MAKE FEES PAYABLE BY:

Certified check or money order to: The Steamfitters' Industry Educational Fund. Cash will not be accepted.

MAIL NOT LATER THAN:

TO:

Joint Steamfitting Apprenticeship Committee
75 East 45th Street, Room 3000
New York, New York 10017

No 513

Signed .....
(Applicant)

Address .....

.....

Date Issued

A-937

No. 513

Apprenticeship Application Form

Application must be filled out in ink in the handwriting of applicant.

Date: .....

Name ..... (last) ..... (first) ..... (middle)

Address .....

..... Years ..... Months .....

Other residences in past 1 year and date of residence. (how long at this address)

Address	From	To
.....	.....	.....
.....	.....	.....

Date of Birth ..... Age ..... Soc. Sec. No. .....

Telephone No. ..... Height ..... Weight .....

Graduated from ..... High School ..... % ..... (Avg. mark in H.S.) (year)

College or Technical ..... (school) (length of time)

Parent or Guardian ..... (name) (address)

Citizenship: American ..... Naturalized ..... Filed form N 300 .....

Married or Single ..... Dependents .....

Are you willing to submit to a Physician's Examination? .....

Military Status ..... and/or Type of Discharge .....

REFERENCES:

This application must be completed in full, signed and returned with the following:

1. The required fee of $20.00. ($10.00 for Medical Examination; $10.00 for Aptitude Test.)
2. High School Diploma, or High School Equivalency Diploma.
3. Discharge papers and DD Form 214 from the United States Armed Forces.
4. Birth Certificate.
5. Two letters, one from each voucher. Each voucher must also sign the application.
6. The voucher may be a responsible person testifying that to his knowledge the applicant is of good moral character.

Name of Voucher ..... Address .....

Name of Voucher ..... Address .....

If my application is accepted, I agree to comply with terms and conditions of the standards of the Joint Steamfitting Apprenticeship Committee of the Steamfitters' Industry Educational Fund, Local Union No. 638, and Mechanical Contractors Association of New York, Inc.

Approved by the Joint Steamfitting Apprenticeship Committee.

Chairman ..... Signed ..... (applicant)

Co-Chairman ..... Signed ..... (Parent or Guardian, if applicant is under 21 years of age)

Date ..... Date .....

Form 1

285

A-938

513

EMPLOYMENT HISTORY: If you never held a job indicate this information. List the indicated information for all jobs you have held. If you are n working list information regarding your present job. Reason for terminating jobs must be included. Complete all information requested. List any jobs d ing vacations from school. If space is insufficient, attach separate sheet.

Employer's Name & Address	Title and Duties	Salary	Date Started	Date Left	Reason for Leaving
1.		Start $..... Leaving $.....			
2.		Start $..... Leaving $.....			
3.		Start $..... Leaving $.....			
4.		Start $..... Leaving $.....			
5.		Start $..... Leaving $.....			
6.		Start $..... Leaving $.....			
7.		Start $..... Leaving $.....			

Signed .....
(applicant)

Date .....

A-939

No. 513

POLICE RECORD: List below, giving all detailed information, any police record that you have. List each arrest, the court, the disposition, and whether found guilty or not. It is not necessary to list minor traffic violations. This information must be accurate and complete. Any information which is withheld will be cause for immediate dismissal from the Apprentice Program. If none, say "none."

Name and Address of Police Station or Court	Date	Offense	Outcome

Signed.....
(applicant)

Date.....

Form 3

A-940

No. 513

STATE OF NEW YORK }
COUNTY OF } SS:

, being duly sworn

deposes and says:

That he resides at .....
(Street)

.....
(Borough) (City and State)

That he is the person who has made the within application for admission to apprenticeship training under the training program administered by the Joint Steamfitting Apprenticeship Committee of Steamfitter's Local Union No. 638 and Mechanical Contractors Association of New York, Inc.

That he is not, and has never been, a member of the Communist Party nor a member of any other group which advocates the overthrow of the United States by force.

That he makes this affidavit for the purpose of inducing the Joint Steamfitting Apprenticeship Committee to accept and act upon his application for admission to the apprenticeship training program.

SWORN to before me this

day of 197 .

..... Signed .....
Notary Public (applicant)

Form 4

A-941

No. 513

I authorize investigation of all the statements contained in this application. I understand that misrepresentation, distortion, or omission of the facts called for in this application, is cause for immediate dismissal at any time from the Apprenticeship Program of Steamfitters' Local Union No. 638, and Mechanical Contractors Association of New York, Inc. Further, I understand and agree, that if I am accepted into the Apprenticeship Program, that my employment is for no definite period and may be terminated at any time without any previous notice. I certify that the information given in my application is correct and true.

I agree that all of the decisions of the Joint Steamfitting Apprenticeship Committee shall be final and binding on me, and I shall comply with all terms and conditions set by the Joint Steamfitting Apprenticeship Committee.

In the event of my appointment to apprenticeship training, nothing deriving from such appointment shall be deemed or construed to vest in me any rights or remedies against any employer or against the Joint Steamfitting Apprenticeship Committee or any of its members, or against Steamfitters' Local Union No. 638, and Mechanical Contractors Association of New York, Inc., and I agree that my right and remedies shall be limited to the right to receive wages for hours actually worked.

Signed .....
(applicant)

Signed .....
(Parent or Guardian if applicant is under 21 years of age)

Date .....

:nd on the giving of ten (10) days' notice to the Employer by Enterprise Association in writing by registered mail, this agree .ient shall be deemed amended to the end that on and after the conclusion of the said ten (10) days period only members of the Enterprise Association shall be employed by the Employer in the performance of work coming within the jurisdiction of Enterprise Association and only members of the Metal Trades Branch of Local Union 638 shall be employed in the performance of service work more particularly described in Rule XVI of this agreement.

ARTICLE SIX

This agreement shall supersede and replace all previous agreements entered into between ENTERPRISE and the EMPLOYER, upon the understanding that the EMPLOYER shall continue to be responsible for any moneys heretofore payable with respect to the Pension Fund, Welfare Fund, Educational Fund, Vacation Plan, Security Fund and the Urban Affairs Fund.

IN WITNESS WHEREOF, this agreement has been signed by a duly authorized officer of ENTERPRISE and the EMPLOYER the day and year first above written.

ENTERPRISE ASSOCIATION, LOCAL UNION 638

By .....

Business Agent-at-Large

Business Agent .....

Address: .....

By .....

EMPLOYER

Date Signed .....

(FULL INDIVIDUAL, FIRM OR CORPORATE NAME)

RULES

Rules of the Enterprise Association applying to work at the steamfitting trade and its many branches, in the City of New York and in Nassau and Suffolk Counties, New York and all of Long Island.

RULE I
WORKING DAY

SECTION 1. The hours of labor shall be seven (7) hours per day, to be performed between the hours of eight (8:00) o'clock A.M. and three-thirty (3:30) o'clock P.M., as designated by the employer, every day except Saturday, Sunday and legal holidays.

SECTION 2. No steamfitter or apprentice shall be allowed to apply to any shop or office for employment except between the hours of eight (8:00) o'clock A.M. and three-thirty (3:30) o'clock P.M.

SECTION 3. If a steamfitter is employed on Temporary Heat, the shift shall consist of eight (8) hours. One or more of these shifts may be used.

SECTION 4. Each shift shall be known as the working day for temporary heat, every day including Saturday, Sunday and legal holidays.

SECTION 5. The working days above named shall be known as regular time and shall be time actually employed at work.

RULE II
RATE OF WAGES

SECTION 1. Regular time for a steamfitter except as noted in Section 2 of this Rule shall be paid for at the following rates:

From October 2, 1972 and until receipt of CISC approval, $8.115 per hour or $56.805 per day of seven hours, plus 7% Welfare, 13% Pension, 10% Vacation, and .50 per hour Security; and .03 Educational Fund for each and every hour worked. In addition to the above, each employer shall pay .03 per hour into the Industry Promotional Fund for each and every hour worked and .01 per hour into the New York City Building and Construction Industry Board of Urban Affairs Fund for each and every hour worked. (See Rules, XVIII, XIX, XX, XXI, XXII, XXIII, and XXIV.)

Increases to be maintained in ESCROW pending CISC approval are:

October 2, 1972	to Decemb[illegible] 27, 1972	$.50
December 28, 1972	to June 27, .973	.20
June 28, 1973	to January 2, 1974	.35
January 3, 1974	to June 26, 1974	.35
June 27, 1974	to January 1, 1975	.35
January 2, 1975	to June 30, 1975	.35

Plus .02 cents per hour worked incerase on Educational Fund.

Plus .01 cent per hour worked increase on Industry Promotion Fund.

The money increases stated above are all inclusive, that is, it includes wage increases and Pension, Welfare, Vacation and Security Benefit contributions respectively; the contributions of .05 on each hour worked to the Educational Fund, .04 on each hour worked to the Steamfitting Industry Promotion Fund of New York & Long Island and .01 on each hour worked to the Board of Urban Affairs Fund is over and above package (increase shown above).

The regular hours of labor shall be seven (7) hours per day which is to be performed between the hours of eight (8:00) o'clock A.M. and three-thirty (3:30) o'clock P.M. Fractions of days shall be paid for at the same rate, but no steamfitter or apprentice shall be employed for less than two hours. The lunch period under this Section shall be one-half hour and at the option of the employer, and shall be between the hours of twelve (12:00) noon and twelve-thirty (12:30) o'clock P.M., or twelve-thirty (12:30) o'clock P.M. and one (1:00) o'clock P.M. No overtime shall be paid for labor performed during the regular working day.

SECTION 2. The operation and/or maintenance of temporary heat services from October 2, 1972 and until receipt of CISC approval shall be paid at the rate of $49.46 per shift of eight hours plus all of above noted fringe benefit payments.

For temporary services personnel deposit .38 cents per contractual hour plus .03 cents for each hour worked into Special Payroll Account (Escrow).

No steamfitter operating and/or maintaining temporary heat shall be employed for less than an eight hour shift.

SECTION 3. Effective October 2, 1972 and until receipt of CISC approval on new percentages and rates, Apprentices shall be paid a progressively increasing schedule of wages for five years based on the following percentages of the wage rate payable to journeymen steamfitters, and subject to the provisions of Rule XX with respect to payments for attendance at classes:

1st year 40% of a journeyman steamfitter's rate of wage
2nd year 50% of a journeyman steamfitter's rate of wage
3rd year 60% of a journeyman steamfitter's rate of wage
4th year 70% of a journeyman steamfitter's rate of wage
5th year 85% of a journeyman steamfitter's rate of wage

Pending receipt of CISC approval on new wage rates for Apprentices shown below deposit in Special Payroll Account (Escrow) the amounts shown in final column per contractual hour plus .02 cents per hour worked increase on Educational Fund; plus .01 cent per hour worked increase on Industry Promotion Fund.

1st half of 1st year 40% of a journeyman steamfitter's rate of wage and fringes	$.20
2nd half of 1st year 45% of a journeyman steamfitter's rate of wage and fringes	.755
1st half of 2nd year 50% of a journeyman steamfitter's rate of wages and fringes	.25
2nd half of 2nd year 55% of a journeyman steamfitter's rate of wage and fringes	.805
1st half of 3rd year 60% of a journeyman steamfitter's rate of wages and fringes	.30
2nd half of 3rd year 65% of a journeyman steamfitter's rate of wage and fringes	.855
1st half of 4th year 70% of a journeyman steamfitter's rate of wage and fringes	.35
2nd half of 4th year 75% of a journeyman steamfitter's rate of wage and fringes	.905
5th year 85% of a journeyman steamfitter's rate of wage and fringes	.425

WAGE REOPENER:

In the case of the wage item, if the CISC or Wage Board Rules terminate at any time during this Agreement, then one (1) year after the effective date of Agreement, the wage item can be renegotiated, upon written notification by either party, and upon completion of those wage negotiations, the new wage becomes effective 6 months from that date.

ARTICLE IX shall be amended to include the above exception.

RULE III
RATE FOR OVERTIME AND HOLIDAYS

SECTION 1. Any work done between three-thirty (3:30) o'clock P.M. and eight (8:00) o'clock A.M., and on Saturdays (with the exception stated in Rule I, Sections 3 and 4), Sundays, New Year's Day, Lincoln's Birthday, Washington's Birthday (3rd Monday in February), Memorial Day (Last Monday in May), Fourth of July, Labor Day, Columbus Day (2nd Monday in October), Election Day, Veteran's Day (4th Monday in October), Thanksgiving Day and Christmas Day, shall be paid for at double the rate for regular time, commencing at the hour at which the fitter reports for work by direction of the employer.

No overtime shall be paid for labor performed during the regular working day.

SECTION 2. When it is not convenient to start work until between the hours of eleven o'clock (11:00) P.M., and four o'clock (4:00) A.M., then the fitter's time shall commence at eleven o'clock (11:00) P.M., and continue until said work is completed. Under these conditions no fitter shall receive less than one (1) day's pay regular time.

SECTION 3. Employer will give employees 24 hours notice of scheduled overtime requirements. All emergency overtime will be worked as required by the employer.

RULE IV
METHOD OF PAYMENT

SECTION 1. All steamfitters and apprentices employed shall be paid at quitting time in cash on Friday for the week ending the Wednesday prior, or at the option of the Employer be paid by check.

If wages are paid by check, the Employer must be in compliance with the requirements of Rule XXV of this Agreement. Payments to be made at the option of the Employer, either on the job or at the shop. When a steamfitter or apprentice is laid off or discharged or not put to work, he shall at once be paid the wages due him in cash.

SECTION 2. The Union may refuse to permit employees to work for any employer who is delinquent in either wage or Fund payments required under this Agreement.

SECTION 3. If the Employer exercises the option to pay by check it is the Employer's responsibility to arrange for the free and convenient cashing of checks by Employees during the regular working hours on payday.

SECTION 4. The checks issued for wages by all Employers who have received permission to pay by check in accordance with Rule XXV shall have payment guaranteed by the Industry Promotion Fund. Upon presentation of satisfactory proof of a bad check the Industry Promotion Fund will issue a replacement check to the employee within 48 hours.

RULE V
MEN TO WORK IN UNITS OF TWO

All work to be performed within the jurisdiction of Enterprise Association must be performed by journeymen steamfitters or apprentices working in units of two, one of whom must be a steamfitter. A unit shall be composed of:

A. Steamfitter with a steamfitter, or
B. Steamfitter with an apprentice.

RULE VI
WHERE STEAMFITTERS AND APPRENTICES ARE TO BE AT 8:00 O'CLOCK A.M.

Each steamfitter and apprentice shall be paid from the time at which he arrives at his work within the territory of Greater New York and all of Long Island and there shall be no boat or carfare paid to steamfitters or apprentices working in said territory.

A steamfitter who is sent to work outside of the above noted territory shall take the boat, train or car leaving either of the extreme points of the territory, as directed by his employer, going on boat, train or car leaving nearest eight (8:00) o'clock A.M. and returning take the boat, train or car arriving nearest three-thirty (3:30) o'clock P.M.

RULE VII
EXPENSES ALLOWED TO STEAMFITTERS

Each steamfitter working outside of the limits described in Rule No. VI shall receive from his employer traveling expenses to and from the place at which the work is located for as many trips as he is directed by his employer to make. He

SECTION 4. The fitter in charge of a shift shall meet any emergency arising to the best of his ability and with the object of protecting the property and interests of his employer.

SECTION 5. In the operation and/or maintenance of temporary heat, the jurisdiction of Enterprise Association shall continue until a permit or certificate of occupancy is issued.

SECTION 6. An employer will not engage a steamfitter on the above type of heating maintenance who cannot produce satisfactory evidence that he is over the age of forty (40) years.

RULE XI A
TEMPORARY AIR CONDITIONING

When an employer requires temporary operation of air conditioning systems which have been installed by steamfitters, the employer shall employ steamfitters for such operation. All steamfitters employed for such air conditioning operation shall be paid the same as provided for temporary heat maintenance. The number of steamfitters and the duration of operation and the equipment and systems to be maintained shall be determined by the employer in an equitable manner.

RULE XII
TOOLS AND SHANTIES

SECTION 1. The Employer shall provide all necessary tools required for the fitter to perform the work. The fitter shall comply with all Employer rules and regulations in the use and care of these tools, and promptly report any that are missing, destroyed or in need of repair.

SECTION 2. The Employer shall provide suitable shanties and dressing facilities on all jobs. These shall be heated during winter months. Where these are prefabricated for job assembly, they shall be job assembled by fitters.

SECTION 3. In the event an employee's working clothes are destroyed by fire during other than working hours, the Employer shall compensate the employee for the replacement of these articles, but in no event shall the amount for replacement exceed Fifty ($50.00) Dollars per man. In the event personal property, including street or dress clothes of an employee, are destroyed due to fire, during working hours, the amount of damage shall be limited to Seventy-Five ($75.00) Dollars.

RULE XIII
EFFICIENCY OF WORKMEN

Inasmuch as greater efficiency in all lines of work is necessary in this reconstruction period, therefore the Enterprise Association will encourage all steamfitters and apprentices in every way to accomplish such results and shall discourage any limitation of the amount of work a man may do.

RULE XIV
DUTIES OF A STEAMFITTER

The duties of a Steamfitter shall be such as are described under the heading "Duties of a Steamfitter" in the agreement made and entered into by and between the United Association and the Enterprise Association, March 24th, 1914, and copy hereto attached.

RULE XV
TRANSFER CARDS

The Union regulations respecting "Transfer Cards" as described in the Constitution, By-Laws and Rules of Order of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, as amended by the 1971 Convention held at Denver, Colorado, August 1971 to be effective January 1, 1972, are hereby made part of this Trade Agreement.

RULE XVI
SERVICE WORK

When an employer subscribing to this agreement employs members of Refrigeration and Air Conditioning Service and Maintenance Mechanics, Metal Trades Branch of Local Union 638, to perform refrigeration, air conditioning, air cooling, stoker and oil burner service work, such work shall be performed in accordance with the terms of a Trade Agreement in effect between the Contractors' Association and the Metal Trades Branch of Local Union 638 described above.

RULE XVII
JOB STEWARDS

Where the Employer employs four (4) or more units (as defined in Rule V) of Enterprise Association members on a job, then the members of Enterprise Association on the job shall select from one of such units a Job Steward, who shall be a working steamfitter and who shall act in behalf of the interests of the Union and whose duties shall not interfere with the work he is employed to perform by his Employer.

When the Employer of a Job Steward has four (4) or more units working overtime on the job where the Job Steward is employed, the Job Steward and his partner shall be included in one of the units working overtime.

The steamfitter in charge shall be the Shop Steward whenever less than four (4) units are employed on the job.

The employer agrees not to discriminate in any way against any person so designated as Job Steward, either due to his being designated or to his activities in behalf of Enterprise Association and its members.

RULE XVIII
WELFARE FUND

From October 2, 1972 to June 30, 1975, inclusive, all employers shall pay to the Steamfitters' Industry Welfare Fund seven percent (7%) of the gross wages paid to journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, N. Y., before any deductions are made for withholding or other taxes. Such fund was established by an Agreement and Declaration of Trust, dated May 15, 1946, to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this agreement be amended in accordance with its terms.

RULE XIX
PENSION FUND

From October 2, 1972 to June 30, 1975, inclusive, all employers shall pay to the Steamfitters' Industry Pension Fund thirteen percent (13%) of the gross wages paid to journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, N. Y., before any deductions are made for withholding or other taxes. Such fund was established by an Agreement and Declaration of Trust, dated November 1, 1950, to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the trustees of said Trust, from time to time to time and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this agreement be amended in accordance with its terms.

RULE XX
EDUCATIONAL FUND

From October 2, 1972 to June 30, 1975, inclusive, all employers shall pay to the Steamfitters' Industry Educational Fund five (5¢) cents per hour for each and every hour worked by journeymen and apprentice steamfitters employed in the City of New York, Nassau and Suffolk Counties, N. Y. Such Fund was established under date of August 14, 1952 and by Agreement and Declaration of Trust, dated May 1, 1960 to which the Contractors' Association and Enterprise Association were parties and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the Trustees of said Trust, from time to time, and to be bound by and comply with all of the provisions of said Agreement and Declaration of Trust as the same exists or may during the term of this Agreement be amended in accordance with its terms.

Each apprentice will attend classes for eight (8) hours on one (1) day every other week in compliance with the requirements of said Educational Fund and the employer of each such apprentice will pay to the apprentice who attends such classes for the requisite eight (8) hours, a total of five (5) hours wages based on the following percentages of the wage rate paid to journeymen steamfitters:

1st year	—40% of a journeyman steamfitter's rate of wage
2nd year	—50% of a journeyman steamfitter's rate of wage
3rd, 4th and 5th years	—60% of a journeyman steamfitter's rate of wage

RULE XXI
VACATION PLAN

From October 2, 1972 to June 30, 1975, inclusive, all employers shall pay to every journeyman and apprentice steamfitter employed by him an additional wage equivalent to 10% of said steamfitter's or apprentice's total gross wages pursuant to Rule II which additional wage, less any requisite withholdings or deductions therefrom as required by law, shall be paid to the trustees of the Steamfitters' Vacation Plan to be established for the account of the respective steamfitter or apprentice and in accordance with the appropriate rules and regulations to be established by such trustees; which payments shall be disbursed by said trustees only to the steamfitter or apprentice with respect to whom such payments have been made (less actual expense of formulating and administering the trust) as a vacation payment to said steamfitter or apprentice, and in accordance with such rules and regulations as may be adopted by the trustees in furtherance of the objectives set forth in this rule.

RULE XXII
SECURITY

From October 2, 1972 to June 30, 1975, inclusive, all employers shall pay into the Steamfitters' Industry Security Benefit Fund (which was established by an Agreement and Declaration of Trust dated September 1, 1961 as a trusteed fund jointly administered in compliance with law) the sum of fifty (.50) cents per hour regular time and one dollar ($1.00) per hour for overtime. Said sums (less actual expenses of administering the trust) shall be held by the trustees of said Fund for the benefit of the steamfitter or apprentice with respect to whom such payments have been made and applied in accordance with such plan as may be adopted by the Trustees. Such plan shall qualify under applicable provisions of the internal revenue code to insure deductibility of said payments from taxable income of the employer.

RULE XXIII
INDUSTRY PROMOTIONAL FUND

Every employer shall during the term of this Agreement pay four (.04) cents per hour to the Steamfitting Industry Fund of New York & Long Island for each and every hour worked by journeymen and apprentice steamfitters for work performed by them in the City of New York and in Nassau and Suffolk Counties, New York. Such Fund was originated by an agreement dated July 6, 1966, to which the Contractors' Association and Enterprise Association were parties. Such Fund was established by a Declaration of Trust, dated September 30, 1966, and all employers agree to make the aforesaid payments in accordance with the rules and regulations established by the Trustees of said Trust from time to time, and to be bound by and comply with all provisions of said Agreement and Declaration of Trust.

RULE XXIV
URBAN AFFAIRS FUND

Each employer shall pay through the Steamfitters' Industry Fund Office to the Trustees of the New York City Building and Construction Industry Board of Urban Affairs Fund one (.01) cent per hour for each and every hour worked by journeymen and apprentices. Wherever Trainees are employed they shall be paid in accordance with Section III of Rule II.

Should the Board of Arbitration by mutual agreement cease participation in the Urban Affairs Fund this Rule shall become null and void.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, v. ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 OF U.A., et al., Defendants.	NOTICE OF MOTION 71 Civ. 847
UNITED STATES OF AMERICA, Plaintiff, v. ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 OF U.A., et al., Defendants.	

PLEASE TAKE NOTICE that the attached Motion is returnable in the United States District Court for the Southern District of New York before the Honorable Dudley B. Bonsal at a time and place to be fixed by the Court.

Dated: New York, New York
October 26, 1973

Yours, etc.,

Dennis R. Yeager
E. Richard Larson
Marilyn R. Walter

By: Marilyn R. Walter

Attorneys for Plaintiffs
423 West 118th Street
New York, New York 10027
Tel.: (212) 866-8591

TO: PAUL J. CURRAN, Esq.
United States Attorney
United States Courthouse
Foley Square
New York, New York 10007
Att.: Joel B. Harris, Esq.

DELSON & GORDON
230 Park Avenue
New York, New York 10017
Att.: Ernest Fleischman, Esq.

BREED, ABBOTT & MORGAN
One Chase Manhattan Plaza
New York, New York 10005
Att.: Thomas A. Shaw, Jr., Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, v. ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 OF U.A., et al., Defendants.	MOTION
UNITED STATES OF AMERICA, Plaintiff, v. ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 847

PLAINTIFFS HEREBY MOVE for an Order upon the annexed Affidavit and Bill of Costs, pursuant to 42 U.S.C. §§1981 and 2000e-5(k), Rule 54(d) of the Federal Rules of Civil Procedures and ¶¶25 and 26 of the Order and Judgment of this Court entered on June 21, 1973, awarding costs and attorneys' fees against the defendants.

Dated: New York, New York
October 26, 1973

Respectfully submitted,

Dennis R. Yeager
E. Richard Larson
Marilyn R. Walter

By: Marilyn R. Walter

Attorneys for Plaintiffs
423 West 118 Street
New York, New York 10027
Tel.: (212) 866-8591

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 847
UNITED STATES OF AMERICA, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 2877
	AFFIDAVIT

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

E. RICHARD LARSON, being duly sworn, deposes and says:

1. He is an attorney duly admitted to practice in this Court and represents the plaintiffs in this action. He is a Senior Attorney at the National Employment Law Project (the "Project") and, as such, is fully familiar with the operations of said Project.

2. Attached hereto as Exhibit A is a bill of costs in this matter which sets forth only those costs to which the plaintiffs are entitled and which is based on the financial records of the Project.

3. The Project is a law office funded through the Council of New York Law Associates' Charitable Trust (the "Trust") pursuant to grants from the United States Office of Economic Opportunity ("OEO") and from Trinity Church in the City of New York for the purposes of providing assistance in the area of employment law to legal services attorneys and of representing the poor in connection with employment-related legal problems. The Project is also funded directly pursuant to a contract between the United States Equal Employment Opportunity Commission ("EEOC") and the Project.

4. All of the Project attorneys who have worked on 71 Civ. 847 are employees of the Project and of the Trust (pursuant to the OEO grant) or are employees of the Project (pursuant to the EEOC contract).

5. The grant made to the Project by OEO specifically contemplates the receipt of funds from sources other than OEO and the use of such funds to further the purposes of the Project.

6. The contract between the EEOC and the Project specifically contemplates the receipt of attorneys' fees pursuant to Title VII of the Civil Rights Act of 1964 to perpetuate the activities of the Project under the contract with the EEOC.

7. The Project does not accept clients on a fee-paying basis and funds received by the Project pursuant to court order are not for the benefit of the attorneys employed by the Project but are used to further the purposes of the Project pursuant to the terms of its grants and the EEOC contract. The grant from OEO to the Project requires that all income generated by program activities be used only for approved program activities under the grant.

WHEREFORE, deponent respectfully requests that this Court grant plaintiffs' motion.

E. Richard Larson
E. RICHARD LARSON

Sworn to before me this
28 day of October, 1973

Mayer D. Reed
NOTARY PUBLIC

MAYER G. REED
Notary Public, State of New York
No. 31-1370211
Qualified in New York County
Commission Expires March 30, 1975

Form A. O. 133 (1-63) BILL OF COSTS

United States District Court
for the

A-952

SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs,
vs.
LOCAL 638, et al., Defendants.

CIVIL ACTION FILE NO. 71 Civ. 647

Judgment having been entered in the above entitled action on the day of , 19 , against the clerk is requested to tax the following as costs:

BILL OF COSTS

Fees of the clerk	$ 15.00
Fees of the marshal	
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	1714.68
Fees and disbursements for printing	
Fees for witnesses (itemized on reverse side)	40.00
Fees for exemplification and copies of papers necessarily obtained for use in case	
Docket fees under 28 U. S. C. 1923	20.00
Costs incident to taking of depositions	1566.90
Cost as shown on Mandate of Court of Appeals	
Other Costs (Please itemize)	
Total	$ 3356.58

State of New York
County of New York } ss:

I, E. Richard Larson do hereby swear that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy hereof was this day mailed with postage fully prepaid thereon.
to

Please take notice that I will appear before the Clerk who will tax said costs on , 19 at .

Attorney for

Subscribed and sworn to before me this day of A. D. 19
at

Notary Public.

Costs are hereby taxed in the amount of $ this day of , 19 , and that amount included in the judgment.

Clerk.

By Deputy Clerk.

NOTE: SEE REVERSE SIDE FOR AUTHORITIES ON TAXING COSTS.

Witness Fees (computation, cf. 2 U. S. C. 1821 for statutory fees)

Name and Residence	Attendance Days	Attendance Total Cost	Subsistence Days	Subsistence Total Cost	Mileage Miles	Mileage Total Cost	Total Cost Each Witness
Frederick Clarke 1137 Croes Avenue Bronx, New York	1	20.00					20.00
Thomas J. Murray 434 East 52nd Street New York, New York	1	20.00					20.00
						TOTAL	40.00

NOTICE

Section 1924, Title 28, U. S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

See also Section 1920 of Title 28 which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

"Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs; but cost against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

Rule 6 (e)

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period."

Rule 58 (In Part)

"The entry of the judgment shall not be delayed for the taxing of costs."

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 OF U.A., et al., Defendants.	AFFIDAVIT 71 Civ. 847

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.:

DENNIS R. YEAGER, being duly sworn, deposes and says:

1. He is the attorney for the plaintiffs in this action and is the Director of the National Employment Law Project and this affidavit is submitted in support of plaintiffs' Motion for Costs and Attorneys' Fees.

2. The National Employment Law Project attorneys who have worked on this matter have been required to keep records of the time that they have devoted to it.

3. The National Employment Law Project maintained, in its business office, a separate account of expenses advanced by the Project in this matter.

4. The records maintained by attorneys indicate that the following amounts are due as attorneys' fees:

Dennis R. Yeager -- 766.25 hours at $65 per hour =	$49,806.25
E. Richard Larson -- 213.75 hours at $50 per hour =	$10,687.50
Mayer G. Freed -- 58.5 hours at $45 per hour =	$ 2,632.50
Marilyn R. Walter -- 413.5 hours at $35 per hour =	$14,472.50
TOTAL:	$77,598.75

5. Business records of the Project reveal the following disbursements, in addition to the court costs itemized in plaintiffs' Bill of Costs served October 26, 1973, to date:

Witnesses (travel, expenses and fees) --	$ 1,749.30
Travel (other than for witnesses) --	$ 225.97
Other expenses (purchase of statistical materials) --	$ 67.88
TOTAL:	$ 2,043.15

6. Though the Project did not maintain complete records of subway fares and Xerox costs, a conservative estimate of expenditures for these items would be $250.00.

7. Thus the total due to the National Employment Law Project is $79,644.40 in addition to court costs of $3,356.58 previously itemized.

WHEREFORE deponent respectfully requests that this Court grant plaintiffs' motion for attorneys' fees.

/s/ Dennis R. Yeager
DENNIS R. YEAGER

ATTORNEY FOR PLAINTIFFS

Sworn to before me this
1st day of ~~January~~ February, 1974

/s/ Robert P. Roberts
NOTARY PUBLIC

Commission Expires March 30, 1974

A-956

National Employment Law Project

423 West 118th Street
New York, N. Y. 10027
(212) 866-8591

November 22, 1974

The Hon. Inzer B. Bonsal
United States District Judge
United States District Court
Southern District of New York
Foley Square, Room 1902
New York, New York 10007

Re: Rios, et al. v. Enterprise Association, et al.
71 Civ. 847

Dear Judge Bonsal:

I would like to draw the Court's attention to the recent affirmance of the decision in Class v. Norton, 376 F. Supp. 496, 503 (D.Conn. 1974) awarding attorneys fees to two legal services offices. I enclose a copy of the Second Circuit's decision affirming that award. Obviously this is related to the defendants' contention that legal services offices should not be awarded attorneys fees.

Sincerely,

Dennis R. Yeager
Director

DRY:nd
Enc.

cc: Thomas A. Shaw, Jr., Esq.
Richard Brook, Esq.
Steven J. Glassman, Esq.

A-957

LAW OFFICES
DELSON & GORDON
230 PARK AVENUE
NEW YORK, N.Y. 10017
(212) 686-8030
CABLE "DELGOR"
TELEX 236153

JAKARTA, INDONESIA OFFICE
SANI SUKMAT & ASSOCIATES
JALAN IMAM BONJOL 78-79
JAKARTA, INDONESIA

WASHINGTON, D.C. OFFICE
1900 L STREET, N.W.
WASHINGTON, D.C. 20036
(202) 833-9540

November 27, 1974

Hon. Dudley B. Bonsal
District Court Judge
United States District Court
Southern District of New York
United States Courthouse
Foley Square
New York, New York 10007

Re: Rios, et al. v. Local 638, et al.
71 Civ. 847

Dear Judge Bonsal:

This is in response to Mr. Yeager's letter to you dated November 22, 1974 in which he claims reliance upon Class v. Norton, 376 F. Supp. 496, 503 (D. Conn.) affirmed by Slip Opinion dated October 10, 1974 in support of his motion for attorneys' fees in the above-captioned case.

The Class decision is distinguishable from the instant case and provides no foundation for legal fees in the case at bar. First, the basis for the Court of Appeals decision was that the defendant required the bringing of an action which should have been unnecessary in that defendant's conduct constituted "unreasonable, obdurate obstinancy", and/or a showing of "bad faith". Slip Opinion, page 92, footnote 1. That theory for awarding counsel fees is separate and apart from the "private attorney general" theory upon which plaintiffs seek fees in this case. There is no showing and not even any allegation of bad faith by the Union in the defense of this action.

Second, the award of fees in the Class case concerned fees occasioned by a contempt proceeding which resulted in a finding of substantial non-compliance with that District Court order. In the instant case, there was no finding of contempt, in fact, this Court denied a contempt motion brought against the Union; the Union has cooperated fully in implementing this Court's orders.

Third, there is nothing in the Class decision to indicate the source of funding of those legal services groups which received fees; here the National Employment Law Project admits to being funded virtually in toto by federal funds; namely, OEO and EEOC. Additionally, the statute involved herein expressly precludes awarding fees to the EEOC and the EEOC may not obtain indirectly through the National Employment Law Project what it cannot obtain directly. Also, nothing in the Second Circuit's opinion indicates that the award of fees was challenged on the basis of the status of the legal services groups whereas that point has been raised herein.

Fourth, there are factors in the case at bar not present in Class, e.g., the ability of the Union to pay such fees and the need to finance the equitable relief provided for in the Affirmative Action Plan.

Finally, there is nothing in the District Court opinion or in the Court of Appeals opinion in the Class case which requires legal fees to be awarded, the same being implicitedl recognized as being within the discretion of the District Court.

For the reasons stated above and in the Union's prior Memoranda of Law on the subject, counsel fees should be denied in the instant case.

Respectfully,

Richard Brook

RP:nd
cc: Dennis R. Yeager, Esq.
Steven J. Classman, Esq.
Thomas A. Shaw, Jr., Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS' LOCAL 638 OF U.A., et al., Defendants.	AFFIDAVIT 71 Civ. 847

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

DENNIS R. YEAGER, being duly sworn, deposes and says:

1. I am the Director of the National Employment Law Project and am an attorney for plaintiffs in this action.

2. Based on the time records maintained by the attorneys in this office and the business records maintained by the office manager, I have determined that the following represents a breakdown or the amounts owed as attorneys' fees and costs in this case:

I. Hours Listed in Affidavit of 2/1/74

Work Performed	Attorney	Hours
Preparation of Court Complaint, New York State Division of Human Rights Complaint, United States Equal Employment Opportunity Commission Complaint, Motion for Preliminary Injunction, Hearing on Preliminary Injunction, research prior to filing case	Dennis R. Yeager E. Richard Larson	70 116

Work Performed	Attorney	Hours
Preparation for and Conduct of Deposition of Murray (Union President)	Dennis R. Yeager	4
	E. Richard Larson	2
Preparation of Interrogatories, negotiations on Answers, Motion to Compel Answers	Dennis R. Yeager	33.5
	E. Richard Larson	10
	Mayer G. Freed	31
Attending and preparing for Preliminary Injunction, 71 Civ. 2877	Dennis R. Yeager	15.25
Preparation for, conduct of and attendance at Depositions of Barrett & Gottesman (testing experts)	Dennis R. Yeager	12.5
	E. Richard Larson	9
Preparation for and conduct of Deposition of Rutledge (plaintiff)	Mayer G. Freed	5.5
Preparation for and conduct of Deposition of Kerr (JATC Director)	Dennis R. Yeager	15.25
	E. Richard Larson	4.25
Preparation for and conduct of Deposition of Hopkins (MCA Secretary)	Dennis R. Yeager	14.5
	E. Richard Larson	5.25
Preparation for and conduct of Deposition of Tracey (Union Business Agent)	Dennis R. Yeager	12

Work Performed	Attorney	Hours
Document Examination	Dennis R. Yeager	6
	Marilyn R. Walter	49.25
Meetings and telephone conversations with United States Attorney's Office (before trial)	Dennis R. Yeager	14.25
	E. Richard Larson	3
Meetings and telephone conversations with and letters to attorneys for defendants and witnesses (before trial)	Dennis R. Yeager	13.75
	E. Richard Larson	.25
	Marilyn R. Walter	7
Preparation of Motion for Designation of Judge	Dennis R. Yeager	3.75
Preparation for and attendance at Pre-trial Conferences with Court	Dennis R. Yeager	16
	Marilyn R. Walter	5.5
Pre-trail preparation (Pre-Trial Order drafts, stipulations of facts, preparation of witnesses, Requests for Admissions, case file review, exhibit lists, etc.)	Dennis R. Yeager	161.25
	E. Richard Larson	21
	Mayer G. Freed	5
	Marilyn R. Walter	134.75
New York State Division of Human Rights Proceedings	Dennis R. Yeager	1
Memorandum on Back Pay	Marilyn R. Walter	5.75

Work Performed	Attorney	Hours
Memorandum on Attorneys' Fees	Marilyn R. Walter	5
Preparation for and conduct of Deposition of Derryk	Dennis R. Yeager	5.5
	Marilyn R. Walter	4
Conduct of trial (includes witness interviews, etc. during trial)	Dennis R. Yeager	75.5
	E. Richard Larson	5
	Marilyn R. Walter	49
Post-trial briefs	Dennis R. Yeager	141.75
	E. Richard Larson	38
	Marilyn R. Walter	65.5
Preparation for and Attendance at post-trial conferences with Court (includes letters on census data, proposed orders, etc.)	Dennis R. Yeager	63
	Mayer G. Freed	16
	Marilyn R. Walter	45
Administrator (meetings, correspondence and telephone conversations, etc.)	Dennis R. Yeager	11.5
Response to Union Order to Show Cause, Court of Appeals	Dennis R. Yeager	12
	Marilyn R. Walter	1
First Union Appeal	Dennis R. Yeager	5
	Marilyn R. Walter	15.5

Work Performed	Attorney	Hours
Motion to extend period of exclusive non-white admissions	Dennis R. Yeager	15
	Marilyn R. Walter	8.75
Preparation of Proposed Affirmative Action Plan (drafts of Plan, meetings with Administrator and Court)	Dennis R. Yeager	44
	Marilyn R. Walter	17.5

II. Work Not Included in Affidavit of 2/1/74

A. Work prior to 2/1/74

Class Action Motion	Dennis R. Yeager	10 (est.)
	E. Richard Larson	10 (est.)
First Union Appeal	Dennis R. Yeager	83.75
	Marilyn R. Walter	51.50

B. Work After 2/1/74

First Union Appeal	Dennis R. Yeager	24.25
Administrator (meetings, correspondence, telephone conversations, etc.)	Dennis R. Yeager	3.25
	Warren J. Bennia	1.5
Intervention Motion (Gunther, et al.)	Dennis R. Yeager	51.25
	Robert P. Roberts	1.5
	E. Richard Larson	31.75
	Mayer G. Freed	1
	Warren J. Bennia	1

Work Performed	Attorney	Hours
Motion for Attorneys' Fees	Dennis R. Yeager	22.75
	Robert P. Roberts	11.5
	Mayer G. Freed	37.75
	Marilyn R. Walter	6.5
	Warren J. Bennia	.25
Motion for back-pay	Dennis R. Yeager	22.75
	Mayer G. Freed	18
	Warren J. Bennia	51.5
	Marilyn R. Walter	21.75
Telephone conversations and letters to, and conferences with attorneys, witnesses, interested non-parties, etc.	Dennis R. Yeager	3.5
	Warren J. Bennia	.25
Remand	Dennis R. Yeager	98.75
	Mayer G. Freed	.5
	Marilyn R. Walter	22
	Warren J. Bennia	113
Preparation for and attendance at conference with Court after Remand	Dennis R. Yeager	11
	Marilyn R. Walter	42.5
	Warren J. Bennia	.5
Class-related activities	Dennis R. Yeager	1
	E. Richard Larson	3
	Mayer G. Freed	5.75
	Warren J. Bennia	85.25

Work Performed	Attorney	Hours
Intervention Motion Appeal	Dennis R. Yeager	22
(Gunther, et al.)	Warren J. Bennia	.25
	Marilyn R. Walter	67.5
	Diana H. Greene	1
	Robert P. Roberts	1
Intervention on Appeal	Dennis R. Yeager	29.75
(Chamber of Commerce)	Marilyn R. Walter	20.75
	Warren J. Bennia	19
Second Union Appeal	Dennis R. Yeager	3.75
	Marilyn R. Walter	11

C. Work After 1/1/75

Preparation of Attorneys' Fees	Dennis R. Yeager	21.5
Affidavit	Marilyn R. Walter	11.25
Remand	Dennis R. Yeager	.5
	Marilyn R. Walter	.75
	Warren J. Bennia	.75
Administrator	Dennis R. Yeager	3.25
	Marilyn R. Walter	.5
Intervention Motion Appeal	Dennis R. Yeager	.25
(Gunther, et al.)	Marilyn R. Walter	25

Work Performed	Attorney	Hours

III. Summary

A.	Work Listed in Affidavit of 2/1/74	Dennis R. Yeager	766.25
		E. Richard Larson	213.75
		Mayer G. Freed	57.5
		Marilyn R. Walter	413.5
B.	Work Performed Prior to 2/1/74 but not Listed in Affidavit of 2/1/74	Dennis R. Yeager	93.75
		E. Richard Larson	10
		Marilyn R. Walter	51.5
C.	Work Performed After 2/1/74	Dennis R. Yeager	319.5
		Robert P. Roberts	14
		E. Richard Larson	34.75
		Mayer G. Freed	63
		Marilyn R. Walter	192
		Warren J. Bennia	272.5
		Diana H. Greene	1
D.	Work Performed After 1/1/75	Dennis R. Yeager	25.5
		Marilyn R. Walter	37.5
		Warren J. Bennia	.75

E. Totals

Attorney	Hours	Fee	Amount Due
Dennis R. Yeager	1,154.0	$65/hr. through 12/31/74	$75,010.00
	25.5	$80/hr. after 12/31/74	2,040.00
Robert P. Roberts	14.0	$65/hr.	910.00
E. Richard Larson	258.5	$50/hr.	12,925.00
Mayer G. Freed	120.5	$45/hr.	5,422.50
Marilyn R. Walter	465.0	$35/hr. through 6/26/74	16,275.00
	192.0	$45/hr. 6/27/74 through 12/31/74	8,640.00
	37.5	$50/hr. after 12/31/74	1,875.00
Warren J. Bennia	272.5	$35/hr. through 12/31/74	9,537.50
	.75	$40/hr. after 2/31/74	30.00
Diana H. Greene	1.0	$45/hr. through 12/31/74	45.00
		TOTAL	$132,710.00

IV. Costs and Disbursements Itemized in Affidavit of 2/1/74 and Bill of Costs $ 5,399.73

V. Costs Incurred Since 2/1/74 (Transcripts) (Excludes Costs Taxed in Second Circuit) $ 191.09

VI. Total Due $138,300.82

WHEREFORE, deponent respectfully requests that this Court grant plaintiffs' Motion for Attorneys' Fees.

/s/ Dennis R. Yeager
DENNIS R. YEAGER
ATTORNEY FOR PLAINTIFFS

Sworn to before me this
21st day of January, 1975

/s/ Brunilda S. Bayo
NOTARY PUBLIC

Brunilda S. Bayo, New York
Notary [illegible]
Commission Expires March 30, 1976

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al., Defendants.	SUPPLEMENTAL AFFIDAVIT 71 Civ. 847

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.:

DENNIS R. YEAGER, being duly sworn, deposes and says:

1. I am the Director of the National Employment Law Project and am an attorney for plaintiffs in this action.

2. Based on the time records maintained by the attorneys in this office and the business records maintained by the office manager, I have determined that the following represents a breakdown of the amounts owed as attorneys' fees, by date, and costs in this case:

I. Hours Listed in Affidavit of 2/1/74

Work Performed	Attorney	Hours
Preparation of Court Complaint, Motion for Preliminary Injunction, Hearing on Preliminary Injunction, research prior to filing case (in the Affidavit of 1/21/75 no time was included for preparation of the New York State Division of Human Rights	Dennis R. Yeager (1/71 [during January, 1971, the Complaint and preliminary injunction papers were prepared], 2/3, 2/8, 2/16-19, 2/22, 2/24-25, 3/1-3, 3/8, 3/10-11,	

Work Performed	Attorney	Hours
Complaint or the United States Equal Employment Opportunity Commission Complaint)	3/14-15/71) E. Richard Larson (12/70 [during December, 1970 Mr. Larson engaged in research on the theory of the case and drafting court papers]; 1/8-22, 1/25-26, 2/26, 3/11, 3/15/71)	70 116
Preparation for and Conduct of Deposition of Murray (Union President)	Dennis R. Yeager (3/11-12/71) E. Richard Larson (3/11-12/71)	4 2
Preparation of Interrogatories, negotiations on Answers, Motion to Compel Answers	Dennis R. Yeager (3/71, 4/71 [preparation of interrogatories occurred prior to 4/8/71], 5/10, 5/27, 6/8, 7/27, 8/2, 8/30-31, 9/9, 10/5, 10/8, 10/15, 10/20, 10/26, 10/29, 11/10, 11/19, 11/24,	

Work Performed	Attorney	Hours
	12/6/71; 3/16, 3/21, 4/3, 6/13, 9/11, 9/14, 9/19, 9/29, 10/6, 10/10, 10/17, 10/19, 11/6/72)	33.5
	E. Richard Larson (4/10, 11/9, 11/18, 12/20/71; 1/24, 1/27-28/72)	10
	Mayer G. Freed (8/71 [Mr. Freed worked on the Motion to Compel Answers to Interrogatories], 11/9, 11/22-23/71)	31
Attending and Preparing for Preliminary Injunction, 71 Civ. 2877	Dennis R. Yeager (11/22, 11/26, 12/1-2/71)	15.25
Preparation for, conduct of and attendance at Depositions of Barrett and Gottesman (testing experts)	Dennis R. Yeager (2/9-10/72)	12.5
	L. Richard Larson (12/31/71; 2/1, 2/9-10/72)	9

Work Performed	Attorney	Hours
Preparation for and conduct of Deposition of Rutledge (plaintiff)	Mayer G. Freed (8/28-29/72)	5.5
Preparation for and conduct of Deposition of Kerr (JATC Director)	Dennis R. Yeager (3/13, 3/21-22/72)	15.25
	E. Richard Larson (2/17, 3/22/72)	4.25
Preparation for and conduct of Deposition of Hopkins (MCA Secretary)	Dennis R. Yeager (4/4-5/72)	14.5
	E. Richard Larson (11/4, 11/29, 12/6/71; 1/6, 1/13, 4/5/72)	5.25
Preparation for and conduct of Deposition of Tracey (Union Business Agent)	Dennis R. Yeager (5/16-19/72)	12
Document Examination	Dennis R. Yeager (5/3/72)	6
	Marilyn R. Walter (10/2, 10/10-11,	

Work Performed	Attorney	Hours
	10/24-26, 11/6, 11/14, 11/22, 11/27, 12/4, 12/7, 12/20, 12/22/72; 1/5/73)	49.25
Meetings and Telephone Conversations with United States Attorney's Office (befo trial)	Dennis R. Yeager (3/10, 6/6, 9/8, 10/12-13, 10/31, 11/16, 11/22, 11/28, 12/20/72; 1/8/73)	14.25
	E. Richard Larson (9/8/72).	3
Meetings and Telephone conversations with and letters to attorneys for defendants and witnesses	Dennis R. Yeager (5/9-11, 10/12-13, 10/20, 11/1, 11/8, 11/16-17, 11/22, 11/28, 12/17, 12/19/72; 1/2-4/73	13.75
	E. Richard Larson (2/14/72)	.25
	Marilyn R. Walter (10/17-18, 11/2, 12/8, 12/27/72)	7
Preparation of Motion for Designation of Judge	Dennis R. Yeager (5/16-17/72)	3.75

Work Performed	Attorney	Hours
Preparation for and attendance at Pre-trial Conferences with Court	Dennis R. Yeager (6/13, 9/29, 11/20-21/72)	16
	Marilyn R. Walter (9/20, 11/21/72)	5.5
Pre-trial preparation (Pre-Trial Order drafts, stipulations of facts, preparation of witnesses, Requests for Admissions, case file review, exhibit lists, etc.)	Dennis R. Yeager (9/19-21, 9/23-25, 9/27, 10/10-13, 10/16, 10/27, 10/31, 11/1, 11/21, 11/27, 11/30, 12/2, 12/5-6, 12/9, 12/11, 12/18-19/72; 1/4, 1/6, 1/9-14/73)	161.25
	E. Richard Larson (9/21-22, 9/25-26, 10/5, 11/30/72)	21
	Mayer G. Freed (10/9, 10/12, 10/23/72)	5
	Marilyn R. Walter (9/8, 9/10-12, 9/16-17, 9/19-20, 10/2-6, 10/10-11, 10/19, 10/24-27, 10/31, 11/1, 11/6, 11/14-15, 11/17, 11/20, 11/22, 11/27, 11/30, 12/4, 12/7, 12/12-15, 12/18, 12/20-22/72; 1/9-14/73)	134.75

Work Performed	Attorney	Hours
Memorandum on Back Pay	Marilyn R. Walter (8/21-23/73)	5.75
Preparation and Conduct of ›osition of Derryck	Dennis R. Yeager (10/30/72)	5.5
	Marilyn R. Walter (10/18, 10/30, 11/5, 12/5/72)	4
Conduct of Trial (includes witness interviews, etc. during trial)	Dennis R. Yeager (1/15-21, 1/23-24, 1/26/73)	75.5
	E. Richard Larson (1/17/73)	5
	Marilyn R. Walter (1/15-19, 1/24, 1/26/73)	49
Post-trial Briefs	Dennis R. Yeager (1/31, 2/1-13, 3/5-9, 3/16, 3/27-28/73)	141.75
	E. Richard Larson (2/3, 2/8-12, 3/5, 3/7/73)	38
	Marilyn R. Walter (1/29-2/2, 2/5-9, 2/12-13, 3/8, 3/15, 3/26-27/73)	65.5

Work Performed	Attorney	Hours
Preparation for and Attendance at post-trial conferences with Court (includes letters on census data, proposed orders, etc.)	Dennis R. Yeager (3/2-3, 4/26, 4/30, 5/1-4, 5/7-10, 5/21, 5/25-29, 6/7-8, 6/20, 7/5-6, 7/17, 7/20, 8/26/73; 1/21/74)	63
	Mayer G. Freed (5/8-14, 6/1, 6/4, 6/7, 6/20/73)	16
	Marilyn R. Walter (4/25-26, 5/7-9, 5/14, 5/21-22, 6/1, 6/4, 6/7, 6/18, 6/20, 7/2-3, 7/9-11/73)	45
Administrator (meetings, correspondence and telephone conversations, etc.)	Dennis R. Yeager (6/18, 7/14, 7/16, 7/20, 7/23-24, 7/30, 8/1, 8/21-23, 8/27-30, 10/3, 11/2/73)	11.5
Response to Union Order to Show Cause for a stay	Dennis R. Yeager (8/3-4, 8/6-7/73)	12
	Marilyn R. Walter (8/2/73)	1

Work Performed	Attorney	Hours
First Union Appeal	Dennis R. Yeager (8/29, 10/1, 10/4/73)	5
	Marilyn R. Walter (7/16, 7/18-20, 7/23/73)	15.5
Motion to extend period of exclusive non-white admissions	Dennis R. Yeager (10/1, 10/4-5, 10/10-13, 11/5/73)	15
	Marilyn R. Walter (11/1-3, 11/5/73)	8.75
Preparation of Proposed Affirmative Action Plan (drafts of Plan, meetings with Administrator and Court)	Dennis R. Yeager (10/15, 10/18-20, 12/3-4, 12/11/73; 1/21/74)	44
	Marilyn R. Walter (10/16-17, 10/19, 10/22, 12/3-4/73)	17.5

II. Work Not Included in Affidavit of 2/1/74

A. Work Prior to 2/1/74

Class Action Motion (Motion served 4/23/71, Order entered 8/24/71)	Dennis R. Yeager	10 (est.)
	E. Richard Larson	10 (est.)

Work Performed	Attorney	Hours
First Union Appeal	Dennis R. Yeager (12/13-21, 12/23-24, 12/26/73; 1/14/74)	83.75
	Marilyn R. Walter (8/27, 9/5, 9/9, 9/24, 9/28, 10/3-4, 10/15, 10/24, 10/29-30, 11/1, 12/10-14, 12/16-20, 12/23/73)	51.5

B. Work After 2/1/74 and Before 1/1/75

First Union Appeal	Dennis R. Yeager (3/9, 3/11-12, 6/25, 6/29)	24.25
Administrator (meetings, correspondence, telephone conversations, etc.)	Dennis R. Yeager (4/15, 9/26, 10/5, 10/17-19, 11/12, 11/25-26)	3.25
	Warren J. Bennia (4/3-4, 4/16-17)	1.5
Intervention Motion (Gunther, et al.)	Dennis R. Yeager (4/15-16, 4/18-19, 4/22-27, 4/29-30, 5/1, 5/5-8)	51.25

Work Performed	Attorney	Hours
	Robert P. Roberts (4/24-25)	1.5
	E. Richard Larson (4/11-12, 4/15-17, 4/19, 4/23-26, 4/29, 5/2, 5/6, 5/8)	31.75
	Mayer G. Freed (4/23)	1
	Warren J. Bennia (4/19)	1
Motion for Back Pay	Dennis R. Yeager (4/1-5, 4/8, 4/10-11)	22.75
	Mayer G. Freed (4/1-5)	18
	Marilyn R. Walter (7/15-16, 7/18, 7/22-23, 7/25-26, 7/29, 9/3, 9/9-10)	21.75
	Warren J. Bennia (4/4 , 4/8-11)	51.5
Telephone conversations and letters to, and conferences with attorneys, witnesses, interested non-parties, etc.	Dennis R. Yeager (6/11, 6/13, 8/1, 10/3, 10/5, 10/23)	3.5
	Warren J. Bennia (4/23)	.25

Work Performed	Attorney	Hours
Remand	Dennis R. Yeager (6/27-28, 7/2-3, 7/5, 7/8, 7/12, 7/15, 7/18, 7/22, 7/24-27, 7/29-31, 8/1, 9/4-7, 9/10-13, 10/7-8, 10/10, 10/17-18, 10/21, 11/11, 12/11	98.75
	Mayer G. Freed (6/15)	.5
	Marilyn R. Walter (6/26, 7/8, 7/22, 7/25, 7/29, 8/13, 8/22-23, 8/26, 9/3, 9/11-12, 10/1, 10/3, 10/7, 10/17, 10/21, 11/11)	22
	Warren J. Bennia (7/1-2, 7/10-12, 7/15-17, 7/19, 7/22-26, 7/29-30, 8/21-23, 9/4-6, 9/9-13, 11/11, 11/15)	113
Preparation for and attendance at conferences with Court after Remand	Dennis R. Yeager (6/24, 7/1, 7/9-10, 9/29-30, 10/1-2)	11

Work Performed	Attorney	Hours
	Marilyn R. Walter (6/24, 6/26, 7/1-2, 7/9, 7/11, 8/19, 9/30)	16
	Warren J. Bennia (7/2)	.5
Class-related activities	Dennis R. Yeager (4/24-25, 4/29)	1
	Mayer G. Freed (4/29, 5/7-8, 5/15-16, 5/21)	2.5
	Warren J. Bennia (3/26, 4/2-3, 4/16-17, 4/19, 4/22-26. 4/29-5/3, 5/6-10, 5/13-16, 5/24, 6/6, 6/18, 7/1, 7/16, 8/30, 9/5, 9/10, 10/3, 10/5, 10/8)	85.25
Intervention Motion Appeal (Gunther, et al.)	Dennis R. Yeager (10/21, 10/24-25, 10/31, 11/6, 11/23, 11/25, 12/11, 12/13, 12/16, 12/19-20, 12/23-24)	22

Work Performed	Attorney	Hours
	Robert P. Roberts (12/3, 12/17)	1
	Marilyn R. Walter (10/17, 10/21-22, 10/24, 10/28, 10/31, 11/18, 11/25-26, 12/3, 12/8-9, 12/13-19, 12/22-24, 12/30)	67.5
	Diana H. Greene (10/6)	1
	Warren J. Bennia (9/17)	.25
Intervention on Appeal (Chamber of Commerce)	Dennis R. Yeager (9/12, 9/16-20, 9/24, 9/26-28, 10/3-4)	29.75
	Marilyn R. Walter (9/10, 9/16-19, 9/23, 9/30)	20.75
	Warren J. Bennia (9/16-19)	19
Second Union Appeal	Dennis R. Yeager (4/29, 5/9, 6/13, 6/25, 6/27)	3.75
	Marilyn R. Walter (6/25, 6/27)	11

Work Performed	Attorney	Hours
C. Work After 1/1/75		
Remand	Dennis R. Yeager (1/8, 1/23, 1/28, 2/5, 2/11)	9
	Marilyn R. Walter (1/2, 1/13, 1/30, 2/3)	1.5
	Warren J. Bennia (1/8)	.75
Administrator	Dennis R. Yeager (1/6, 1/13, 1/15-17)	2
	Marilyn R. Walter (1/6)	.5
Intervention Motion Appeal (Gunther, et al.)	Dennis R. Yeager (1/17, 1/21, 1/23, 1/24, 1/26-27)	15.75
	Marilyn R. Walter (1/2, 1/6, 1/9, 1/12-14, 1/17-19, 1/20-25, 1/27-28, 2/11, 2/13)	60.25

Work Performed		Attorney	Hours
	III. Summary		
I.	Work Listed in Affidavit of 2/1/74	Dennis R. Yeager	765.25
		E. Richard Larson	213.75
		Mayer G. Freed	57.5
		Marilyn R. Walter	408.5
II.	Work Not Listed in Affidavit 2/1/74		
	A. Work Performed Prior to 2/1/74	Dennis R. Yeager	93.75
		E. Richard Larson	10
		Marilyn R. Walter	51.5
	B. Work Performed After 2/1/74 and Before 1/1/75	Dennis R. Yeager	271.25
		Robert P. Roberts	2.5
		E. Richard Larson	31.75
		Mayer G. Freed	22
		Marilyn R. Walter	159
		Warren J. Bennia	272.25
		Diana H. Greene	1
	C. Work Performed After 1/1/75	Dennis R. Yeager	26.75
		Marilyn R. Walter	62.25
		Warren J. Bennia	.75

TOTALS

Attorney	Hours	Fee	Amount Due
Dennis R. Yeager	1,130.25	$65/hr. through 12/31/74	$ 73,466.25
	26.75	$80/hr. after 12/31/74	2,140.00
Robert P. Roberts	2.5	$65/hr.	162.50
E. Richard Larson	255.5	$50/hr.	12,775.00
Mayer G. Freed	79.5	$45/hr.	3,577.50
Marilyn R. Walter	460.0	$35/hr. through 6/26/74	16,100.00
	159.0	$45/hr. 6/27/74 through 12/31/74	7,155.00
	62.25	$50/hr. after 12/31/74	3,112.50
Warren J. Bennia	272.25	$35/hr. through 12/31/74	9,528.75
	.75	$40/hr. after 12/31/74	30.00
Diana H. Greene	1.0	$45/hr. through 12/31/74	45.00
		SUB-TOTAL	$128,092.50
Costs and Disbursements Itemized in Affidavit of 2/1/74 and Bill of Costs			$ 5,399.73
Costs Incurred Since 2/1/74 (Transcripts) (Excludes Costs Taxed in Second Circuit)			$ 244.91
		TOTAL DUE	$133,737.14

WHEREFORE, deponent respectfully requests that this Court grant plaintiffs' Motion for Attorneys' Fees.

/s/ Dennis R. Yeager
DENNIS R. YEAGER
Attorney for Plaintiffs

Sworn to before me this
18th day of February, 1975

/s/ Marilyn R. Walter
NOTARY PUBLIC

MARILYN R. WALTER
Notary Public, State of New York
No. 31-4511708
Qualified in New York County
Term Expires March 30, 1975

February 19, 1975

Hon. Dudley B. Bonsal
United States District Judge
Southern District of New York
United States Courthouse
Foley Square
New York, New York

Re: Rios, et al. v. Local 638, et al.
71 Civ. 847

Dear Judge Bonsal:

This office has just received the supplemental affidavit of Mr. Yeager in support of plaintiffs' motion for attorneys' fees. We expect that you will deny Mr. Yeager's request for fees in its entirety for reasons set forth in our several briefs to you on that subject. However, should some award of fees be made, the Union, of course, reserves the right to challenge the amount as well as the propriety of such fees.

Respectfully,

DELSON & GORDON

Richard Brook

RB:nd
cc: Thomas A. Shaw, Jr., Esq.
Dennis R. Yeager, Esq.
Steven J. Glassman, Esq.

LAW OFFICES
DELSON B. GORDON
230 PARK AVENUE
NEW YORK, N.Y. 10017
(212) 686-8030
CABLE "DELEGOR"
TELEX 236153

A-988

JAKARTA, INDONESIA OFFICE
GANI DJEMAT & ASSOCIATES
JALAN IMAM BONJOL 76-78
JAKARTA, INDONESIA

WASHINGTON, D.C. OFFICE
1900 L STREET, N.W.
WASHINGTON, D.C. 20036
(202) 833-9540

April 2, 1975

Hon. Dudley B. Bonsal
United States District Judge
United States District Court
Southern District of New York
United States Courthouse
Foley Square
New York, New York

Re: Rios, et al. v. Local 638, et al.
U.S. v. Local 638, et al.

Dear Judge Bonsal:

This will request that the date for submission of additional briefs on the issues of back pay, attorneys' fees and costs be extended from April 10, 1975 until at least one month thereafter. One reason this request is made is because I have been actively engaged for the last week in both federal and state court proceedings involving temporary restraining orders and injunctions; those actions required me to stop work on all other matters, including this case.

Second, the Union intends to submit additional financial data which may not be available for some time. These materials will have a substantial bearing on the monetary issues.

Finally, additional information will be sought from Mr. Yeager, informally at first, as to the relation of his organization to the EEOC and OEO. We must have that information prior to commenting fully on the attorneys' fees issue.

This will also request that the date for the hearing on the recalculation of the percentage goal be changed from April 17, 1975 to a date at least two weeks later. This request is made because of the fact that the expert witness we planned to call on is unavailable for two weeks including April 17, 1975 (due to out of town

commitments). Also, my involvement in the injunction proceedings has delayed our preparation for the hearing on the goal.

Thank you for considering these requests.

Respectfully submitted,

Richard Brook

RB:nd
cc: Vincent D. McDonnell, Esq.
Steven J. Glassman, Esq.
Dennis R. Yeager, Esq.
Thomas A. Shaw, Jr., Esq.

Pages A-990 through A-999 have been omitted intentionally.

LAW OFFICES
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A-1000

JAKARTA, INDONESIA OFFICE
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JALAN IMAM BONJOL 76-78
JAKARTA, INDONESIA

WASHINGTON, D.C. OFFICE
1900 L STREET, N.W.
WASHINGTON, D.C. 20036
(202) 833-9540

April 4, 1975

Dennis R. Yeager, Esq.
National Employment Law Project
423 West 118th Street
New York, New York 10027

Re: U.S. v. Local 638, et al.
Rios, et al. v. Local 638, et al.

Dear Mr. Yeager:

This will request that you furnish this office with additional information concerning the relationship of your office to EEOC and OEO in connection with your claim for attorneys' fees. This information, some of which was previously requested in my February 15, 1974 letter to you, is relevant to the Union's position that your office is not entitled to fees because of the source of your office's funding. We believe that the following information, if not voluntarily supplied, is properly obtainable through Court order and/or under the Freedom of Information Act.

The information and materials requested include:

1. A copy of the trust agreement referred to as the "Council of New York Law Associates' Charitable Trust" in paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson.

2. A copy of the contract or contracts between the National Employment Law Project and the United States Equal Employment Opportunity Commission ("EEOC") under which the Project is "funded directly" according to paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson.

3. A copy of all documents relating to funding of the Project by the Office of Economic Opportunity ("OEO"), a source of funding referred to in paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson.

4. The name, title, address and telephone number of the individual or individuals at EEOC and OEO who must or in fact approve the use of money received by the Project as attorneys' fees, and similarly identify the individual(s) in EEOC and OEO to whom the Project must report receipt of attorneys' fees.

5. The name, title, address and telephone number of the individual or individuals at EEOC and OEO who approve program activities of the Project under the grants from the government.

6. A copy of each letter, directive and regulation from EEOC and OEO which regulates the Project's right to receive attorneys' fees, the reporting of receipt fo such fees and where and how and by whom such fees are to be used.

7. Copies of any other documents or correspondence showing the amounts, conditions, purposes and instructions relating to all grants or payments to the Project from OEO and EEOC during the period of this lawsuit.

We look forward to your early response.

Very truly yours,

Richard Brook

RB:nd
cc: Hon. Dudley B. Bonsal
Vincent D. McDonnell, Esq.
Steven J. Glassman, Esq.
Thomas A. Shaw, Jr., Esq.

A-1002

National Employment Law Project

423 West 118th Street
New York, N. Y. 10027
(212) 866-8591

April 4, 1975

The Honorable Dudley B. Bonsal
United States District Judge
Southern District of New York
United States Courthouse, Room 1902
Foley Square
New York, N. Y. 10007

Re: George Rios et al. v. Enterprise Association Steamfitters' Local 638 of U.A. et al., 71 Civ. 847; EEOC v. Enterprise Association Steamfitters' Local 638 of U.A., 71 Civ. 2877

Dear Judge Bonsal:

This letter is written in response to the letter of Richard Brook dated April 2, 1975. It is the view of the plaintiffs that it would be inappropriate to extend the time for the filing of additional briefs on the subjects of back pay, costs and attorneys' fees. The back pay motion was filed in February, 1974 and has been briefed extensively by the parties. The costs and attorneys' fees motion was filed in October, 1973 and it too has been thoroughly briefed. Moreover, all of these points were briefed in the post-trial memoranda filed by the parties in the spring of 1973.

Likewise, plaintiffs believe that it would be inappropriate to postpone the hearing on providing additional factual support for the 30% non-white goal. The Court of Appeals decision was rendered in June of 1974. We are rapidly approaching the date for the determination of compliance with the goal for 1975. In these circumstances it would seem appropriate that we achieve some certainty concerning the goal as soon as possible.

I have spoken to Mr. Glassman, of the United States Attorney's Office, and he is in accord with the private plaintiffs' position that extensions of the times for filing briefs and holding the hearing would be inappropriate.

In the private plaintiffs' view, it would be particularly inappropriate to postpone the filing of the briefs in order to provide the Union with an opportunity to further investigate this Project's relationship to the United States Equal Employment Opportunity Commission ("EEOC") and the Office of Economic Opportunity ("OEO"). This issue was resolved in the conference of March 17, 1975, when the Court indicated that the receipt of funds from the EEOC and OEO would be taken into account as an equitable consideration in determining the amount of the fee (Transcript of Proceedings 3/17/75 at 21).

Sincerely,

Dennis R. Yeager
Attorney for Plaintiffs

DRY:dl
cc: Steven J. Glassman, Esq.
Richard Brook, Esq.
Thomas A. Shaw, Jr., Esq.

A-1004

National Employment Law Project

423 West 118th Street
New York, N. Y. 10027
(212) 866-8591

April 24, 1975

Richard Brook, Esq.
Delson & Gordon
230 Park Avenue
New York, N. Y. 10017

Re: George Rios et al. v. Enterprise Association Steamfitters' Local 638 of U.A. et al., 71 Civ. 847

Dear Mr. Brook:

I am writing to respond to your letter of April 4, 1975. As I believe you know, I have previously expressed my opposition to providing you with the information you request in that letter.

Sincerely,

Dennis R. Yeager
Attorney for Plaintiffs

DRY:dl
cc: Hon. Dudley B. Bonsal
Vincent D. McDonnell, Esq.
Steven J. Glassman, Esq.
Thomas A. Shaw, Jr., Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 847 (D.B.B.) DEFENDANT LOCAL 638's INTERROGATORIES TO PLAINTIFFS GEORGE RIOS, et al.
UNITED STATES OF AMERICA (E.E.O.C.), Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 of U.A., et al., Defendants.	71 Civ. 2877 (D.B.B.)

The plaintiffs, George Rios, et al., are hereby requested to answer the following interrogatories within 30 days:

1. Describe the fee arrangements made in the above case between the National Employment Law Project ("Project" hereinafter) and the plaintiff class in the above case, including the hourly fee agreed upon, if any, whether it was a contingent fee arrangement, who agreed to pay the fee and to whom the fee was to be paid.

2. Set forth the name, title, address and telephone number of the individual or individuals at the United States Equal Employment Opportunity Commission ("EEOC" hereinafter) and/or the United States Office of Economic Opportunity ("OEO" hereinafter who must or, in fact, do determine:

(a) the amount of money granted by EEOC and/or OEO to the Project;

(b) who must or, in fact, do review or approve the cases, projects and other uses to which the money furnished to the Project may or shall be applied;

(c) who must be or, in fact, are notified of the Project's request for court-awarded attorney's fees in this case and other Title VII cases;

(d) who must be or, in fact, will be notified of the Project's receipt of court-awarded attorney's fees in other Title VII cases and in this case; and

(e) who must be or, in fact, will approve the use of any court-awarded attorney's fees to the Project in this case or other Title VII cases and whether the Project, EEOC or OEO will receive and keep such awards.

3. Identify by title, author, parties, date and

other description with sufficient particularity to comply with a request for production of documents pursuant to Rule 34, F.R.C.P. the following:

(a) the trust agreement referred to as the "Council of New York Law Associates' Charitable Trust" in paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson;

(b) the contract or contracts between the Project and the EEOC under which the Project is "funded directly" according to paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson;

(c) all documents relating to funding of the Project by the OEO, a source of funding referred to in paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson;

(d) each letter, directive and regulation from EEOC and OEO which regulates the Project's right to receive attorney's fees, the reporting of receipt of such fees and where and how and by whom such fees are to be used; and

(e) any documents or correspondence other than those referred to in (d) showing the amounts, conditions, purposes and instructions relating to all grants or payments to the Project from OEO and EEOC during the period of this lawsuit.

You are hereby reminded that, pursuant to Rule 26(e)(2) of the Federal Rules of Civil Procedure, you are under a duty to seasonably amend your responses to the foregoing interrogatories if you should obtain information from which you would know that a prior response was incorrect when made, or from which you would know that the prior response, although correct when made, is no longer true and the circumstances are such that a failure to amend the responses is in substance a knowing concealment. In addition, you are under a duty to seasonably supplement your responses to these interrogatories pursuant to Rule 26(e)(1), to the extent applicable.

Dated: New York, New York
May 19, 1975

Yours, etc.

DELSON & GORDON

By _____
A Member of the Firm
230 Park Avenue
New York, New York 10017
(212) 686-8030
Attorneys for Defendant
Enterprise Association Steamfitters Local 638 of U.A.

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

NINA DRUCKER, being duly sworn, deposes and says: Deponent is not a party to the action, is over 18 years of age and resides at 73-45 210th Street, Bayside, New York. On May 20, 1975 deponent served the within Defendant Local 638's Interrogatories to Plaintiffs George Rios, et al. upon:

Hon. Paul J. Curran
U.S. Attorney
United States District Court
Southern District of New York
Foley Square
New York, New York 10003
Attn: Steven J. Glassman, Esq.
Attorneys for Plaintiff United States

Thomas A. Shaw, Jr., Esq.
Breed, Abbott & Morgan
One Chase Manhattan Plaza
New York, New York 10005
Attorneys for Mechanical Contractors Association of New York, Inc.

Dennis R. Yeager, Esq.
National Employment Law Project
423 West 118th Street
New York, New York 10027
Attorneys for Plaintiff George Rios, et al.

Vincent D. McDonnell, Esq.
127 East 35th Street
New York, New York
Administrator of the Affirmative Action Program

by depositing a true copy of same enclosed is a post-paid properly addressed wrapper in an official depository under the

exclusive care and custody of the United States Postal Service within the State of New York.

Sworn to before me this
20th day of May, 1975.

Notary Public

LYNN EHRENBERG
NOTARY PUBLIC, State of New York
No. 30-1086550
Qualified in Nassau County
Commission Expires March 30, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - -

Dalsen & Gordon, Esqs.
233 Park Avenue, New York, N.Y. 10017
Attorneys for Defendants Local 638 and
the Union members of JAC
Richard Dalsen, Esq.
Of Counsel

Dewey, Ballantine & Bushby, Esqs.
1 Chase Manhattan Plaza, New York, N.Y. 10005
Attorneys for Defendants HEA and
the employer members of JAC
Richard A. Hall, Jr., Esq.
Kevin O'Neill, Esq.
Of Counsel

OPINION

Duffy, D. J.

Rios v. Enterprise Association Steamfitters Local 638 of U.A., 71 Civ. 847, was instituted on February 26, 1971 as a class action wherein four non-white workers alleged violations by defendants of Title VII of the Civil Rights Act of 1964, as amended. United States v. Enterprise Association Steamfitters Local 638 of U.A., 71 Civ. 2877, hereinafter referred to as the "government action") was filed by the Attorney General on June 29, 1971, pursuant to his authority under Title VII, 42 U.S.C. §2000e-5(c). The Equal Employment Opportunity Commission ("EEOC") was substituted as plaintiff in the government action on April 16, 1974 pursuant to F.R.Civ.P. 25. These actions were consolidated for the purposes of trial by order of this Court. The prior proceedings are reported at Rios v. Enterprise Association Steamfitters Local 638 of U.A., 71 Civ. 847 (S.D.N.Y. May 5, 1975); United States v. Local 638, Enterprise Association of Steam, etc., 360 F.Supp. 979

(S.D.N.Y. 1973), aff'd but remanded in part, 501 F.2d 622 (2d Cir. 1974); United States v. Local 638, etc., 357 F.Supp. 217 (S.D.N.Y. 1972); Rios v. Enterprise Association Steamfitters Local Union No. 638 of U.A., 326 F.Supp. 198 (S.D.N.Y. 1971); Rios v. Enterprise Association Steamfitters Local Union 638 of U.A., 54 F.R.D. 256 (S.D.N.Y. 1971).

The Rios plaintiffs move for attorneys' fees of $129,092.50 for their attorneys the National Employment Law Project (hereinafter the "Project"), for $2,063.15 in disbursements and for $3,601.40 in costs. The EEOC moves for $3,014.45 in costs incurred in pursuing its action. Defendants oppose these motions.

DISCUSSION

Services Rendered by the Project

The Project states that it is a "law office funded through the Council of New York Law Associates' Charitable Trust ... pursuant [primarily] to grants from the United States Office of Economic Opportunity ("OEO") and [in small part] from Trinity Church in the City of New York for the purposes of providing assistance in the area of employment law to legal services attorneys and of litigating the cases in connection with employment-related legal problems." In addition, the Project receives a significant portion of its fees pursuant to contracts with the EEOC.

The Project instituted the Rios action several months prior to the filing of the government action. On March 21, 1972 Judge Frankel issued a preliminary injunction. 338 F.Supp. 199

(S.D.N.Y. 1971). The Order of this Court filed on June 21, 1973 in the government action contained findings of fact which were based upon evidence obtained in part from answers to interrogatories propounded by the Project attorneys in this prior to the institution of the government action, in part from depositions taken by the Project attorneys and in part from testimony given by expert witnesses called by the Project attorneys at the consolidated trial of the Pico and the government actions.

The Legal Standard

The applicable statute in Title VII actions, 42 U.S.C. §2000e-5(k), provides:

> "In any action or proceeding under this subchapter the court, in its discretion, may allow the prevailing party, other than the [EEOC] or the United States, a reasonable attorney's fee as part of the costs ...."

Attorneys' fees have been awarded in Title VII cases where the plaintiffs have been successful in obtaining the relief sought, see Cuban v. Goodyear Tire & Rubber Co., Bowmont Plant, 484 F.2d 827 (8th Cir. 1974) and cases cited therein, unless there are "special circumstances which would render such an award unjust." See also Northcross v. Board of Education of Memphis City Schools, 412 U.S. 427 (1973) (desegregation suit under Emergency School Aid Act of 1972); Newman v. Piggie Park Enterprises, Inc., 390 U.S. 400 (1968)(Title II of the Civil Rights Act of 1964).

While the cases appear to be divided as to whether the statutory exception as to awards of attorneys' fees to the pub-

and the United States applies to public interest attorneys such as the Project (see Holt v. Tilley, 405 F.2d 210 (1st Cir. 1974); Monfolk v. Brown, 358 F.Supp. 524, 525 (E.D. Va. 1973); Gillis v. Wynn, 336 F. Supp. 1225, 1227-28 (S.D.M.S. 1972); Doe v. Sympathic Hospital of Wichita, Inc., 333 F.Supp. 1357, 1363 (D. Kan. 1971)), here an award of reasonable attorneys' fees to the Project is permissible and appropriate.[1/] See Doe v. Sympathic Hospital of Wichita, Inc., supra. Plaintiffs were the "prevailing party" and the grant of an attorneys' fee is precluded only to the most or the United States. Fee arrangements, if any, between the prevailing party and its attorneys are immaterial. See Clark v. American Marine Corp., 320 F.Supp. 709 (E.D. La. 1970), aff'd on opinion below, 427 F.2d 959 (5th Cir. 1971). See also Richerson v. R & R Apartments, 510 F.2d 1000 (7th Cir. 1975); Bailey v. Patterson, 493 F.2d 598, 606 (6th Cir. 1974); Miller v. Amusement Enterprises, Inc., 426 F.2d 534, 538-39 (5th Cir. 1970).

There are obvious distinctions between the Project or the "United States," which are precluded from recovering attorneys' fees under Title VII, and the Project. The Project attorneys are not government employees, do not enjoy the protections of the civil service laws or of legislatively mandated salaries, and do not represent the government in litigation.[2/]

The Reasonable Award

The plaintiffs apply for $138,032.50 in attorneys' fees for the Project. The Project attorneys' affidavits set forth by

date the services rendered by each attorney and his or her hourly rates: Dennis R. Yeager, Esq. devoted 2157 hours largely at the rate of $65 per hour; E. Richard Larson, Esq. devoted 250.5 hours at a rate of $50 per hour; Marilyn R. Walter, Esq. devoted 691.25 hours at rates ranging from $35 to $50 per hour; Warren J. Nowak, Esq. devoted 273 hours at $35 per hour; and other attorneys devoted an aggregate of 83 hours largely at a rate of $45 per hour. Thus a total of 2449.75 hours were devoted to this case by the Project attorneys and compensation is sought at an average rate of $52.35 per hour. The affidavits submitted are sufficiently detailed to meet the standards of the Court of Appeals in Bldg. of Detroit v. Caldwell Comp., 493 F.2d 848 (3d Cir. 1974).

In determining the amount of attorneys' fees to be awarded, however, the circumstances of the case and the nature and roles of the parties must be considered. Local 542 is not a profit-making organization able to pass the expense of attorneys' fees on to its customers. It is an association of tradesmen united for their mutual employment protection and is supported only by dues and other assessments collected from its members. There was no proof at trial that the members of Local 542 individually engaged in discriminatory practices against members of the plaintiff class, but it is the members who will bear the burden of payment of an attorneys' fee award taxed against Local 542.

The only other defendants who might be called upon to pay the attorneys' fees are HUD and the FHC. However, with a limited trade association of certain of the contractors in the [illegible]

York area, primarily acts for its employer members in collective bargaining negotiations with Local 638 and does not employ steamfitters directly. After trial, the Court found that NCA's status as a proper party did not imply that it was "responsible in some fashion for all the employment practices ... found unlawfully discriminatory or that it is liable in damages to the plaintiffs," and found that plaintiffs had shown "no specific instances of NCA discrimination." 380 F.Supp. at 990.

The JAC is a non-profit joint labor-management committee which, now as well as during the time preceding issuance of the permanent injunction in this action on June 21, 1972, conducted the steamfitters' apprenticeship program. However, JAC was not found to have purposefully discriminated against members of the plaintiff class. JAC adopted the aptitude tests used to screen applicants to the apprenticeship program in good faith upon the recommendation of experts.

Therefore, the only defendant chargeable with these attorneys' fees is Local 638, and it would be inequitable to charge Local 638 with the full amount of the attorneys' fees sought by the Project, even though there is no reason to believe that its services would not justify the full amount if they were to be paid by a profit-making defendant.

Under the circumstances here presented and considering the funds received by the Project from other sources, the Project will be awarded $50,000 in attorneys' fees for its services in this class action. In view of Local 638's financial condition,

evidenced by documents supplied to the Court, this sum will be paid by Local 638 in three equal annual installments of $16,006.67, the first to be paid within 30 days from the order to be entered herein, the second to be paid one year later, and the third to be paid two years thereafter.

PROJECT'S DISBURSEMENTS

Plaintiffs move for $2,043.15 in disbursements made by the Project in connection with the fee action. The disbursements included are reasonable and are properly recoverable. See Evans v. Sheraton Corp. Board of Education, 319 F.Supp. 711 (N.D.Ill. 1971), aff'd, 472 F.2d 177 (7th Cir. 1972). Many of these disbursements are attributable to the development of statistical analyses through which plaintiffs' claims of discrimination were proven and upon which a percentage goal for non-white membership in Local 638 could be determined. Accordingly, plaintiffs are awarded disbursements in the amount of $2,043.15 to be paid by Local 638 within 30 days from the date of the order to be entered herein. See Parsky v. Weinberger, 493 F.2d 503, 507 (9th Cir. 1974); Le Mark Child v. Volpe, 57 F.R.D. 94, 102 (N.D. Cal. 1972) (expert witness).

COSTS

Plan Plaintiffs. — Plaintiffs move for $3,031.19 in costs for the Project pursuant to F.R.Civ.P. 54 and 42 U.S.C. §2000e-5(k), the bill of costs submitted by the Project indicates that approximately 57% of these costs was attributable to court -

reporters' fees and the costs incident to taking depositions.

The award of costs in a civil action is governed by F.R.Civ.P. 54(d), which provides that:

> "Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs ...."

The expenditures made by the Project are properly recoverable as costs. See Independent Iron Works, Inc. v. United States Steel Corp., 322 F.2d 656, 670 (9th Cir.), cert. denied, 375 U.S. 944 (1963); United Rubber Cork, Linoleum & Plastic Workers of America, AFL-CIO v. Ace National Corp., 62 F.R.D. 294 (E.D.N.Y. 1974); 28 U.S.C. §1920.

Since plaintiffs were the "prevailing party," their motion for costs for the Project is granted and the costs are to be paid by Local 638.

NBOC. -- The NBOC moves for $6,011.45 in costs pursuant to F.R.Civ.P. 54(d). The costs incurred were primarily court reporters' fees, witness fees and costs incident to taking depositions. These costs are reasonable and are recoverable from Local 638. See United States v. Lynd, 349 F.2d 725 (9th Cir. 1965); F.R.Civ.P. 54(d).

However plaintiffs and the NBOC are each granted leave to file for reimbursement of the additional costs incurred subsequent to the submission of the applications presently on file.

The foregoing shall constitute the Court's findings of fact and conclusions of law.

Settle order on notice.

Dated: New York, N.Y.
June 27, 1975

DUDLEY B. BONSAL

U. S. D. J.

1/ This case is distinguishable from Alyeska Pipeline Co. v. Wilderness Society, 43 U.S.L.W. 4564 (U.S. May 27, 1975), in that no certain fund court order, Dallas v. Hagan, 330 F.Supp. 1236 (S.D.N.Y. 1971) and Wolfolk v. Rivera, 364 F.Supp. 520 (E.D. Va. 1973), since in these cases the statute did not provide for the awarding of attorneys' fees.

2/ On occasion, the Project has represented private parties in actions against the government. [illegible], Civilization v. [illegible] Board of Water, et al., 414 U.S. 313 (1973); [illegible] v. [illegible], 364 F.Supp. 803 (S.D.N.Y. 1974).

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS' LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 847 (D.B.B.)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAM-FITTERS' LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 2877 (D.B.B.)

OBJECTIONS TO DEFENDANT LOCAL 638'S INTERROGATORIES TO PLAINTIFFS GEORGE RIOS, ET AL.

Plaintiffs, through their attorneys, hereby object to defendant Local 638's Interrogatories to Plaintiffs George Rios, et al. The Interrogatories are set forth immediately below. Plaintiffs' objections follow.

Interrogatory 1.

Describe the fee arrangements made in the above case between the National Employment Law Project ("Project" hereinafter) and the plaintiff class in the above case, including the hourly fee agreed upon, if any, whether it was a contingent fee arrangement, who agreed to pay the fee and to whom the fee was to be paid.

Interrogatory 2.

Set forth the name, title, address and telephone number of the individual or individuals at the United States Equal Employment Opportunity Commission ("EEOC" hereinafter) and/or the United States Office of Economic Opportunity ("OEO"hereinafter) who must or, in fact, do determine:

(a) the amount of money granted by EEOC and/or OEO to the Project;

(b) who must or, in fact, do review or approve the cases, projects and other uses to which the money furnished to the Project may or shall be applied;

(c) who must be or, in fact, are notified of the Project's request for court-awarded attorney's fees in this case and other Title VII cases;

(d) who must be or, in fact, will be notified of the Project's receipt of court-awarded attorney's fees in other Title VII cases and in this case; and

(e) who must be or, in fact, will approve the use of any court-awarded attorney's fees to the Project in this case or other Title VII cases and whether the Project, EEOC or OEO will receive and keep such awards.

Interrogatory 3.

Identify by title, author, parties, date and other description with sufficient particularity to comply with a request for production of documents pursuant to Rule 34, F.R.C.P. the following:

(a) the trust agreement referred to as the "Council of New York Law Associates' Charitable Trust" in

paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson;

(b) the contract or contracts between the Project and the EEOC under which the Project is "funded directly" according to paragraph 3 of the October 26, 1973 Affidavit of E. Richard Larson;

(c) all documents relating to funding of the Project by the OEO, a source of funding referred to in paragraph 3 of the October 26,, 1973 Affidavit of E. Richard Larson;

(d) each letter, directive and regulation from EEOC and OEO which regulates the Project's right to receive attorney's fees, the reporting of receipt of such fees and where and how and by whom such fees are to be used; and

(e) any documents or correspondence other than those referred to in (d) showing the amounts, conditions, purposes and instructions relating to all grants or payments to the Project from OEO and EEOC during the period of this lawsuit.

PLAINTIFFS' OBJECTIONS

First Objection

Plaintiffs object to each and every one of Local 638's Interrogatories on the grounds that said Interrogatories are irrelevant because they seek information regarding an issue which has already been resolved by the Court.

Second Objection

Plaintiffs object to each and every one of Local 638's Interrogatories on the grounds that the information sought by said

Interrogatories is irrelevant.

Third Objection

Plaintiffs object to each and every one of Local 638's Interrogatories on the grounds that said Interrogatories, served more than one year and seven months after the filing of plaintiffs' Motion for Costs and Attorneys' Fees, are untimely.

Fourth Objection

Plaintiffs object to each and every one of Local 638's Interrogatories on the grounds that said Interrogatories seek privileged confidential business information of the National Employment Law Project, Inc.

Fifth Objection

Plaintiffs object to Local 638's Interrogatory 1 on the grounds that it would violate the attorney-client privilege to reveal the information sought in said Interrogatory.

Dated: New York, New York
June 18, 1975

Yours, etc.

DENNIS R. YEAGER
MARILYN R. WALTER
423 West 118th Street
New York, New York 10027

By: Marilyn R. Walter
Marilyn R. Walter

ATTORNEYS FOR PLAINTIFFS

TO: Thomas A. Shaw, Jr., Esq.
Breed, Abbott & Morgan
1 Chase Manhattan Plaza
New York, New York 10005

A-1025

Richard Brook, Esq.
Delson & Gordon
230 Park Avenue
New York, New York 10017

Steven J. Glassman, Esq.
Assistant United States Attorney
United States Courthouse
Foley Square
New York, New York 10007

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

A-1026

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 847 (D.B.B.)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 2877 (D.B.B.)

ORDER

Plaintiffs George Rios, et al. (hereinafter the "Rios plaintiffs") having moved for an order awarding to their attorneys, the National Employment Law Project, Inc. (hereinafter the "Project") a total of $2,043.15 in disbursements, $3,601.49 in costs and $128,092.50 in attorneys' fees; and plaintiff Equal Employment Opportunity Commission (hereinafter "EEOC") having moved for an order awarding to it $6,014.45 in costs,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Attorneys' fees shall be awarded to the Project in the amount of $50,000.00 to be paid by defendant Enterprise Association Steamfitters Local 638 of U.A. (hereinafter "Local 638") in three equal annual installments of $16,666.67, the first to be

paid within 30 days from the date of this order, the second to be paid one year after the first payment, and the third to be paid two years after the first payment.

2. Costs in the amount of $3,601.49 and disbursements in the amount of $2,043.15 shall be awarded to the Project to be paid by Local 638 within 30 days from the date of this order.

3. Costs in the amount of $6,014.45 shall be awarded to plaintiff EEOC to be paid by Local 638 within 30 days from the date of this order.

4. The Rios plaintiffs and plaintiff EEOC are granted leave to file for reimbursement of the additional costs and attorneys' fees incurred subsequent to the submission of the applications presently on file.

5. In all other respects the motions are denied.

Dated: New York, New York
September , 1975

UNITED STATES DISTRICT JUDGE

National Employment Law Project

42[illegible] West 118th Street
New York, N. Y. 10027
(212) 866-8591

October 3, 1975

The Honorable Dudley B. Bonsal
United States District Judge
Southern District of New York
United States Courthouse
Foley Square
New York, New York 10007

Re: Rios et al. v. Enterprise Ass'n Steamfitters Local 638 of U.A. et al.
71 Civ. 847
E.E.O.C. v. Enterprise Ass'n Steamfitters Local 638 of U.A. et al.
71 Civ. 2877

Dear Judge Bonsal:

Plaintiffs in the Rios action previously submitted their proposed order regarding the costs, disbursements and attorneys' fees awarded by the Court and are now in receipt of the order proposed by the defendant Local 638. The order proposed by defendant differs from that of plaintiffs in three respects which we believe to be neither contemplated by nor consistent with the Court's decision on the matter, nor appropriate in the circumstances.

1. Defendant's proposed order (paragraph 6) provides that the order be stayed "indefinitely" pending any appeal by defendant. (It should be noted that, as the provision is written, the stay would indeed be indefinite; no provision is made for automatic vacatur of the stay upon final decision affirming the order.) Plaintiffs submit that this provision is improper since defendant has failed to satisfy any of the requirements for a stay. The procedure and conditions for obtaining a stay pending appeal are established by Rule 62 of the Federal Rules of Civil Procedure and Rule 8 of the Rules of Appellate Procedure, provisions which

allow full opportunity for response and under which a bond may be required. There is no reason for departure from the procedures established by the Rules on this matter. Under Court's decision and the terms of plaintiffs' proposed order, no amounts are due until thirty days after entry of the order. Defendant thus has completely sufficient time to notice an appeal, if that is its intention, and to seek a stay in accordance with the procedures and the requirements established by the Rules.

The undersigned is authorized to report that counsel for the Government in the companion E.E.O.C. action joins in the Rios plaintiffs' objections to the stay to the extent that such stay would affect the costs awarded to the E.E.O.C..

2. On the basis of the defendant's current financial situation, this Court provided for a liberal schedule of installment payments over a two year period of the attorneys' fees awarded to plaintiffs. The order proposed by defendant (see paragraph 1) is evidently intended to defer even the commencement of the installment period until defendant has exhausted any appeals it may take. Plaintiffs submit that even if a stay of the defendant's obligations to make the installment payments pending appeal were to be obtained, there is no reason for the installment period to be affected. That is, the installment period should commence with the entry of the order; if a stay of payments were obtained by defendant pending appeal, the amounts owing should nonetheless continue to accrue in accordance with the schedule established by the Court. Thus, upon affirmance of the decision on any appeal, and unless modified by the appellate court, there would be owing that amount which had theretofore accrued under the installment schedule. Had the Court ordered immediate, full payment of the award, as is conventional, the full amount would be owing upon final decision of any appeal. Plaintiffs submit that there is no reason or equity in a provision which could substantially extend the payment schedule beyond the two year period for which, upon thorough consideration of the equities, the Court has already provided. Plaintiffs suggest that addition of the following provision to paragraph 1 of plaintiffs' proposed order would clarify this matter:

> "The accrual of the amounts owing pursuant to this schedule shall not be affected by any stay of execution of the order pending appeal."

3. The Court's decision granted leave for plaintiffs to file for additional costs incurred subsequent to submission of the previous applications. Plaintiffs submit that this leave should include allowance to file for attorneys' fees subsequently incurred and have so provided in their proposed order (paragraph 4). Defendant's order (paragraph 4) omits such provision. Plaintiffs submit that there is no legal basis on which to preclude reimbursement for subsequently incurred fees. Moreover, any equitable considerations which defendant might urge regarding further award could appropriately be entertained only in light of all circumstances obtaining at the time at which a subsequent motion for further reimbursement may be made. For this reason plaintiffs request clarification of the Court's decision on this point through entry of their order granting leave to file for subsequently incurred disbursements and attorneys' fees as well as costs.

Respectfully yours,

/s/

Marilyn R. Walter
Attorney for Plaintiffs
71 Civ. 847

MRW/em

cc: Steven J. Glassman, Esq.
Richard Brook, Esq.
Thomas A. Shaw, Jr., Esq.

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JAKARTA INDONESIA OFFICE
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JAKARTA, INDONESIA

WASHINGTON, D.C. OFFICE
1900 L STREET, N.W.
WASHINGTON, D.C. 20036
(202) 833-9540

October 7, 1975

Honorable Dudley B. Bonsal
United States District Judge
United States Courthouse
Foley Square
New York, New York 10007

Re: Rios et al. and EEOC v. Enterprise Assoc. Steamfitters Local 638, et al.
71 Civ. 847 and 2877 (DBB)

Dear Judge Bonsal:

This is in response to Mr. Glassman's letter to you concerning the differences between the proposed Order submitted by his office and the proposed Order submitted by this office in behalf of the Union. While Mr. Glassman did accurately describe the differences between the two Orders, it should be noted that the proposed Order which this office submitted did not deviate from your decision although it did differ from Mr. Glassman's proposal.

As to Items 1 and 2 of Mr. Glassman's letter, considering the extensive period of time in which plaintiffs have had to prepare their back-pay claims, the December 31, 1975 deadline should be strictly enforced. While the entire claim does not have to be proven at the time the claim is made, the procedure adopted should be such as to minimize the amount of attorneys' time spent on litigating these case-by-case claims.

As to Item 3, the decision of the Court should be adhered to, including the requirement that claimants show

Yellow

proof that they have met the eligibility criteria established by this Court.

As to Item 4, the statute, and this Court's decision, contemplate compensation for actual loss which includes only that loss which a claimant could not with due diligence have mitigated.

As to Item 5 the notice requirements of plaintiffs' proposal are burdensome, costly and unnecessary.

Very truly yours,

Richard Brook

RB:ds

cc: Steven J. Glassman, Esq.
Marilyn R. Walter, Esq.
Dennis R. Yeager, Esq.
Thomas A. Shaw, Jr., Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

A-1033

U.S. DISTRICT COURT
OCT 8 1975
S.D. OF N.Y.

GEORGE RIOS, et al.,

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al.,

Defendants.

71 Civ. 847
(D.B.B.)

ORDER

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al.,

Defendants.

71 Civ. 2877
(D.B.B.)

Plaintiffs George Rios, et al. (hereinafter the "Rios plaintiffs") having moved for an order awarding to their attorneys, the National Employment Law Project, Inc. (hereinafter the "Project") a total of $2,043.15 in disbursements, $3,601.49 in costs and $128,092.50 in attorneys' fees; and plaintiff Equal Employment Opportunity Commission (hereinafter "EEOC") having moved for an order awarding to it $6,014.45 in costs,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Attorneys' fees shall be awarded to the Project in the amount of $50,000.00 to be paid by defendant Enterprise Association Steamfitters Local 638 of U.A. (hereinafter "Local 638") in three equal annual installments of $16,666.67, the first

to be paid within ~~30~~ 90 days from the effective date of this Order and subject to Paragraph 6 herein, the second to be paid one year after the first payment, and the third to be paid two years after the first payment.

2. Costs in the amount of $3,601.49 and disbursements in the amount of $2,043.15 shall be awarded to the Project to be paid by Local 638 within ~~30~~ 90 days from the date of this Order.

3. Costs in the amount of $6,014.45 shall be awarded to plaintiff EEOC to be paid by Local 638 within ~~30~~ 90 days from the date of this Order.

4. The Rios plaintiffs and plaintiff EEOC are granted leave to file for reimbursement of the additional costs incurred subsequent to the submission of the applications presently on file.

5. In all other respects the motions are denied.

6. This Order is hereby stayed, ~~indefinitely pending a timely appeal therefrom by Local 638, so long as such appeal is prosecuted with due diligence.~~

Dated: New York, New York
~~September~~ October 1, 1975

UNITED STATES DISTRICT JUDGE

AFFIDAVIT OF SERVICE

A-1035

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

DELLA SHAW, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 69-09 108th Street, Forest Hills, New York 11375.

On September 26, 1975, deponent served the within Order and Notice of Settlement upon the following:

Tufo, Johnston & Allegaert
645 Madison Avenue
New York, New York 10022

Paul J. Curran
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007

Marilyn R. Walter, Esq.
423 West 118th Street, 6th Floor
New York, New York 10027

Breed, Abbott & Morgan
One Chase Manhattan Plaza
New York, New York 10005

in this action, the addresses designated by said attorneys for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Della Shaw

Sworn to before me this
26th day of September, 1975.

RICHARD BROOK
Notary Public, State of New York
No. 30-[illegible]
Qualified in [illegible] County
Commission Expires [illegible]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 847 (DBB)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al., Defendants.	71 Civ. 2877 (DBB)

NOTICE OF SETTLEMENT

S I R S :

PLEASE TAKE NOTICE that the within Order will be presented for settlement and signature on behalf of ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638, a defendant in these combined actions, to the Clerk of the United States District Court at his office in the U. S. Courthouse, Foley Square, Borough of Manhattan, City of New York, on the 29th day of September, 1975, at 10:00 in the forenoon

or as soon thereafter as counsel can be heard.

Dated: New York, New York

September 26, 1975

Yours, etc.

DELSON & GORDON
Attorneys for Defendant
Enterprise Association
Steamfitters' Local 638
230 Park Avenue
New York, New York 10017

By: _____

TO: Tufo, Johnston & Allegaert
645 Madison Avenue
New York, New York 10022

Paul J. Curran
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007

Marilyn R. Walter, Esq.
423 West 118th Street, 6th Floor
New York, New York 10027

Breed, Abbott & Morgan
One Chase Manhattan Plaza
New York, New York 10005

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	71 Civ. 847 (D.B.B.)
NOTICE OF MOTION	
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	71 Civ. 2877 (D.B.B.)

SIRS:

PLEASE TAKE NOTICE that upon the attached Memorandum, Plaintiffs will move this Court in Room 2804 of the United States Courthouse, Foley Square, New York, New York on the 3rd day of November, 1975 at 9:30 a.m., or as soon thereafter as counsel may be heard, to alter or amend the judgment of October 9, 1975 on costs and attorneys fees, pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, as set forth in the annexed motion.

Yours,

/s/ Marilyn K. Walter

MARILYN R. WALTER
ROBERT P. ROBERTS
National Employment Law Project, Inc.
423 West 118th Street
New York, New York 10027
(212) 866-8591

TUFO, JOHNSON & ALLEGAERT
645 Madison Avenue
New York, New York 10022
(212) 752-8668

ATTORNEYS FOR PLAINTIFFS

Dated: New York, New York
October 30, 1975

TO:

PAUL J. CURRAN
United States Attorney
United States Courthouse Annex
One St. Andrews' Plaza
New York, New York 10007

DELSON & GORDON
230 Park Avenue
New York, New York 10017

BREED, ABBOTT & MORGAN
One Chase Manhattan Plaza
New York, New York 10005

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	71 Civ. 847 (D.B.B.)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	71 Civ. 2877 (D.B.B.)

MOTION TO ALTER OR AMEND JUDGMENT

Plaintiffs hereby move, pursuant to Rule 59(e) of the Federal Rules of Civil Procedure to alter or amend the order of October 9, 1975 awarding costs, disbursements and attorneys' fees on the grounds that:

a) The order may be interpreted to provide that the initial installment of attorneys' fees and the payment of costs and disbursements are not due until 5 months from the date of the order even if no appeal is taken by the defendant;

b) The order may be interpreted to direct that the amounts owing as attorneys' fees not accrue from the date of the order if a stay of the

payments themselves were to be granted by the Court of Appeals pending appeal.

For the reasons stated in the accompanying memorandum plaintiffs move that the order be altered or amended by:

1. deleting from paragraph 1 the terms "effective" and "subject to paragraph 6 herein"; and
2. providing in paragraphs 1 and 2 for 30 rather than 90 days.

Dated: New York, New York
October 20, 1975

Respectfully submitted,

/s/ Marilyn R. Walter

MARILYN R. WALTER
ROBERT P. ROBERTS
National Employment Law Project, Inc.
423 West 118th Street
New York, New York 10027
(212) 866-8591

TUFO, JOHNSON & ALLEGAERT
645 Madison Avenue
New York, New York 10022
(212) 752-8668

ATTORNEYS FOR PLAINTIFFS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al

Defendants.

71 Civ. 847 (D.B.B.)

AFFIDAVIT IN OPPOSITION TO MOTION TO AMEND OR ALTER ORDER

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiffs,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 OF U.A., et al

Defendants.

71 Civ. 2877 (D.B.B.)

1. I am a member of the firm Delson & Gordon, attorneys for defendant Enterprise Association Steamfitters Local 638 and I am familiar with the proceedings herein.

2. This affidavit is made in opposition to plaintiffs' motion to alter or amend the October 9, 1975 Order of this Court regarding attorneys fees.

3. The Order signed by this Court speaks for itself quite clearly and does not require amendment.

4. Plaintiffs' only complaint is that they may not receive payment as soon as they might want it; the decision on the timing of the payments has already been made by the Court in understandable terms.

5. Should defendant Union not appeal the Order, payment would commence in 150 days from October 9, 1975 which is not an unreasonable period.

6. Should an appeal be taken by the Union the first payment would be due within the same 150 days, unless within that time the Court of Appeals grants a further stay.

7. It is apparent that this Court decided to permit the Union enough time to both appeal and to have the opportunity to make motion to the Court of Appeals for a further stay.

8. By requesting a change from 90 days to 30 days in paragraphs 1 and 2 as well as deletion of the cross reference in paragraph 1 to paragraph 6, plaintiffs would rewrite the Court's Order to make the first payment due 60 days after October 9, 1975; such timing would require the Union to not only appeal within 60 days (as the Court did intend) but to obtain by that date a definitive ruling, if sought, by the Court of Appeals on any further stay (which the Court did not intend).

9. The Court correctly envisioned that if a further stay is sought, the Court of Appeals may not be able to hear much less decide the question within 60 days from October 9; this rationale is valid and reasonable.

10. It is submitted that at the very least defendant should not be required to make any payment for at least 90 days after October 9; and that the 150 day period which is now provided for is not unreasonable and should not be changed.

WHEREFORE, deponent prays that plaintiffs' motion be denied in its entirety.

Richard Brook

Sworn to before me this
20th day of October, 1975.

ARTHUR S. MANTEL
Notary Public, State of New York
No. 31-2[illegible]

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

RICHARD BROOK, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at 46 Hampshire Road, Great Neck, New York.

On October 30, 1975, deponent served the within Affidavit in Opposition to Plaintiffs Motion to Amend or Alter Order upon the following:

Marily R. Walter, Esq.
423 West 118th Street, 6th Floor
New York, New York 10027

Tufo, Johnston & Allegaert
645 Madison Avenue
New York, New York 10022
Attorneys for Plaintiffs,
Rios, et al

Paul J. Curran
United States Courthouse Annex
One St. Andrew's Plaza
New York, New York 10007
Attorney for Plaintiff
Equal Employment
Opportunity Commission

Breed, Abbott & Morgan
One Chase Manhattan Plaza
New York, New York 10005
Attorney for Defendant
MCA

attorneys for the respective parties in this action, the addresses designated by said attorneys for the purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

s/

Sworn to before me this
31st day of October, 1975.

SHIRLEY G. SHIRE
NOTARY PUBLIC, State of New York
No. 31-4500735
Qualified in New York County
Commission Expires [illegible] 30, 1977

A-1045

NOTICE OF ENTRY

Sir:- Please take notice that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on 19

Dated,

Yours, etc.,

for

Office and Post Office Address

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:- Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19

at M.

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

71 Civ. 847

Index No. 71 Civ. 2877 Year 19 75

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al.,
Plaintiffs,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,
Defendants.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Plaintiff,

-against-

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,
Defendants.

NOTICE OF MOTION AND MOTION
AFFIDAVIT OF SERVICE BY MAIL

MARILYN R. WALTER

Attorney for Plaintiffs

Office and Post Office Address, Telephone

423 West 118th Street
New York, New York 10027
(212) 866-8591

To

Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated,

Attorney(s) for

Motion denied. The stay in paragraph 6 of the Order dated October 9, 1975, extends the time fixed in the first paragraph of the Order by 60 days.

It is so Ordered.

November 20, 1975

John F. Dooling, Jr.
U.S.D.J.

U.S. DISTRICT COURT
FILED
NOV 21 1975
S.D. OF N.Y.

MICROFILM
NOV 21 1975

A-1046

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al.,	:	
Plaintiffs,	:	71 Civ. 847 (D.B.B.)
-against-	:	
ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,	:	
Defendants.	:	
		NOTICE OF APPEAL
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	:	
Plaintiff,	:	71 Civ. 2877 (D.B.B.)
-against-	:	
ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A., et al.,	:	
Defendants.	:	

Notice is hereby given that Enterprise Association Steamfitters Local 638, one of the defendants above named, hereby appeals to the United States Court of Appeals for the Second Circuit from that portion of the Order entered in this action on October 9, 1975 (motion to amend or alter the order denied on November 21, 1975) granting attorneys fees and disbursements to the National Employment Law Project, Inc., attorneys for plaintiffs George Rios, et al.

Dated: New York, New York
December 1[illegible], 1975.

DELSON & GORDON
230 Park Avenue
New York, New York 10017
Attorneys for Defendant
Enterprise Association
Steamfitters Local 638

By [illegible]
Richard Brook

20

TO: DIANA GREENE, Esq.
MARILYN R. WALTER, Esq.
NATIONAL EMPLOYMENT LAW PROJECT, INC.
423 West 118th Street
New York, New York 10027
Attorneys for Plaintiffs
George Rios, et al.,

TUFO, JOHNSTON & ALLEGAERT
645 Madison Avenue
New York, New York 10022
Attorneys for Plaintiffs
George Rios, et al.,

THOMAS A. SHAW, JR., Esq.
BREED, ABBOTT & MORGAN
One Chase Manhattan Plaza
New York, New York 10005
Attorneys for Mechanical Contractors
Association of New York, Inc. and
Employer Members of Joint Apprenticeship
and Training Committee

HON. THOMAS CAHILL,
United States Attorney
STEVEN J. GLASSMAN, Esq.,
Assistant United States Attorney
United States Courthouse Annex
One St. Andrews Plaza
New York, New York 10007
Attorneys for Equal Employment
Opportunity Commission

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, ETAL, Plaintiffs, -against- ENTERPRISE ASSOCIATION OF STEAMFITTERS LOCAL 638, ETAL, Defendants	71 CIV 847

WHEREAS, ENTERPRISE ASSOCIATION OF STEAMFITTERS LOCAL 638, intends to prosecute an appeal to the United States Court of Appeals for the Second Circuit from the order dated the 9th day of October, 1975, awarding attorney's fees and disbursements to the Plaintiffs.

NOW, THEREFORE, the HARTFORD ACCIDENT AND INDEMNITY COMPANY, a Connecticut corporation, having an office and usual place of business at 123 William Street, New York, New York 10038, does hereby pursuant to the Statute in such case made and provided, undertake that the above named ENTERPRISE ASSOCIATION OF STEAMFITTERS LOCAL 638, will prosecute its said appeal to effect and answer all costs, not exceeding TWO HUNDRED FIFTY AND 00/100 ($250.00) DOLLARS, if it fails to make good its plea.

DATED, New York, New York this 30th day of December, 1975.

HARTFORD ACCIDENT AND INDEMNITY COMPANY

BY: Grace C. Barrett
Grace C. Barrett, Attorney-in-Fact

BOND NO.N-4300743

Hartford Accident and Indemnity Company

Hartford, Connecticut

Financial Statement, December 31, 1974

(Cents Omitted)

ASSETS

U. S. Government Bonds		$ 17,203,093
Bonds of other Governments		0
State, County, Municipal and Miscellaneous Bonds		857,071,360
Stocks		384,602,138
		$1,258,876,591
Real Estate	$ 9,623,040	
Cash in Offices and Banks	72,807	
Agents' Balances (Under 90 Days)	0	
Sundry Assets	54,714,658	
Total Admitted Assets		**$1,323,287,096**

LIABILITIES

Reserve for Claims and Claims Expense		$ 768,668,157
Reserve for Unearned Premiums		359,896,226
Reserve for Taxes		12,062,602
Miscellaneous Liabilities		27,493,565
Total Liabilities		**$1,168,120,550**
Capital Paid In	$ 40,000,000	
Surplus	115,166,546	
Surplus as regards Policyholders		$ 155,166,546
Total Liabilities, Capital Stock and Surplus		**$1,323,287,096**

STATE OF CONNECTICUT, }
COUNTY OF HARTFORD, } ss.

H. P. Schoen, President of the Hartford Accident and Indemnity Company, being duly sworn, does hereby certify that the foregoing is a correct statement of the assets and liabilities of said Company as of December 31, 1974, and in witness whereof said President has hereunto signed and caused the corporate seal to be affixed hereto.

Acknowledged and sworn to before me
this 11th day of February, 1975

James E. Peik

Notary Public
My commission expires March 31, 1978

HARTFORD ACCIDENT AND INDEMNITY COMPANY
HARTFORD CONNECTICUT

Attest:

H. P. Schoen
President

W. H. Thompson
Vice President and Comptroller

Form CS-19 H A & I Printed in U. S. A.

Hartford Accident and Indemnity Company

HARTFORD, CONNECTICUT

A-1050

POWER OF ATTORNEY

Know all men by these Presents, That the HARTFORD ACCIDENT AND INDEMNITY COMPANY, a corporation duly organized under the laws of the State of Connecticut, and having its principal office in the City of Hartford, County of Hartford, State of Connecticut, does hereby make, constitute and appoint

GRACE C. BARRETT, PAUL J. BERTOLOTTI, PAUL J. CONNELLY, THERESA M. DEVLIN, MARY SCHARF, MARY FISCHETTI, BENNO FRIEDMAN, ANGELO LO BIANCO, JOSEPH A. McKENNA, C. A. PALMER, CAROLE ANN TADDEO, DAVID J. BENSON, NOREEN MATTHIES, and ROBERT K. YASS of NEW YORK, NEW YORK

its true and lawful Attorney(s)-in-fact, with full power and authority to each of said Attorney(s)-in-fact, in their separate capacity if more than one is named above, to sign, execute and acknowledge any and all bonds and undertakings and other writings obligatory in the nature thereof on behalf of the company in its business of guaranteeing the fidelity of persons holding places of public or private trust; guaranteeing the performance of contracts other than insurance policies; guaranteeing the performance of insurance contracts where surety bonds are accepted by states and municipalities, and executing or guaranteeing bonds and undertakings required or permitted in all actions or proceedings or by law allowed.

AND TO WAIVE NOTICE OF CITATION ON BEHALF OF THE COMPANY WHERE IT IS SURETY ON THE BONDS OF FIDUCIARIES,

and to bind the HARTFORD ACCIDENT AND INDEMNITY COMPANY thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the HARTFORD ACCIDENT AND INDEMNITY COMPANY and sealed and attested by one other of such officers, and hereby ratifies and confirms all that its said Attorney(s)-in-fact may do in pursuance hereof.

This power of attorney is granted under and by authority of the following By-Law adopted by the Stockholders of the HARTFORD ACCIDENT AND INDEMNITY COMPANY at a meeting duly called and held on the 10th day of February, 1943.

ARTICLE IV

SECTION 8. The President or any Vice-President, acting with any Secretary or Assistant Secretary, shall have power and authority to appoint, for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one or more Resident Vice-Presidents, Resident Assistant Secretaries and Attorneys-in-fact and at any time to remove any such Resident Vice-President, Resident Assistant Secretary, or Attorney-in-fact, and revoke the power and authority given to him.

SECTION 11. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power of attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company thereto any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested by one other of such Officers.

This power of attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Directors of the HARTFORD ACCIDENT AND INDEMNITY COMPANY at a meeting duly called and held on the 13th day of March, 1956.

RESOLVED, that, whereas the President or any Vice-President, acting with any Secretary or Assistant Secretary, has the power and authority to appoint by a power of attorney, for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one or more Resident Vice-Presidents, Assistant Secretaries and Attorneys-in-fact;

Now therefore the signatures of such officers and the seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

In Witness Whereof, the HARTFORD ACCIDENT AND INDEMNITY COMPANY has caused these presents to be signed by its Vice-President, and its corporate seal to be hereto affixed, duly attested by its Secretary, this 17th day of January, 1968.

Attest: HARTFORD ACCIDENT AND INDEMNITY COMPANY

Douglas H. Geer, *Secretary* — John F. Beardsley, *Vice President*

STATE OF CONNECTICUT, } ss.
COUNTY OF HARTFORD, }

On this 17th day of January, A. D. 1968, before me personally came John F. Beardsley, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Vice-President of the HARTFORD ACCIDENT AND INDEMNITY COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Herbert P. Schoen
Notary Public
My commission expires March 31, 1977

STATE OF CONNECTICUT, } ss.
COUNTY OF HARTFORD, }

CERTIFICATE

I, the undersigned, Assistant Secretary of the HARTFORD ACCIDENT AND INDEMNITY COMPANY, a Connecticut Corporation, DO HEREBY CERTIFY that the foregoing and attached POWER OF ATTORNEY remains in full force and has not been revoked; and furthermore, that Article IV, Sections 8 and 11, of the By-Laws of the Company, and the Resolution of the Board of Directors, set forth in the Power of Attorney, is now in force.

Signed and sealed at the City of Hartford. Dated the 30th day of December, 1975

J. C. Koziell, *Assistant Secretary*

Form S-3507-7 Printed in U. S. A. 6-72

SEE REVERSE SIDE

A-1051

STATE OF NEW YORK)
) SS.
COUNTY OF New York

On December 30, 1975 before me personally came Grace C. Barrett, to me known, who, being by me duly sworn, did depose and say that he resides in 4517 Bergenwood Avenue North Bergen, N.J. ; that he is the attorney-in-fact of the HARTFORD ACCIDENT AND INDEMNITY COMPANY the corporation described in and which executed the within instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order; and that the Superintendent of Insurance of the State of New York has, pursuant to Chapter 33 of the Laws of the State of New York for the year 1909, as amended, constituting Chapter 30 of Cahill's Consolidated Laws of the State of New York, as amended, issued to the HARTFORD ACCIDENT AND INDEMNITY COMPANY his certificate that said Company is qualified to become and be accepted as surety or guarantor on all bonds, undertakings, and other obligations or guarantees, as provided by the Insurance Law of the State of New York and all laws amendatory thereof and supplementary thereto; and that such certificate has not been revoked.

Mary T. Maloney
Notary Public

MARY T. MALONEY
Notary Public, State of New York
No. 31-[illegible]
Qualified in New York County
Commission Expires March 30, 1976

filed A-1052-?

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	71 Civ. 847 (D.B.B.)
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS' LOCAL 638 of U.A., et al., Defendants.	71 Civ. 2877 (D.B.B.)

NOTICE OF APPEAL

Notice is hereby given that plaintiffs above named in 71 Civ. 847 hereby appeal to the United States Court of Appeals for the Second Circuit from each and every aspect of the Order entered in this action on the seventeenth day of October, 1975 ruling upon plaintiffs' motion for costs and attorneys' fees insofar as the award of attorneys' fees was limited to payment solely by defendant Enterprise Association Steamfitters' Local 638 of the United Association of fifty thousand dollars to be paid in three installments, and from each and every aspect of the Order entered on the twenty-first of November, 1975 denying plaintiffs' motion to alter or amend the judgment of October 17, 1975.

Dated: New York, New York
December 22, 1975

MARILYN R. WALTER
ROBERT P. ROBERTS
NATIONAL EMPLOYMENT LAW PROJECT, INC.
423 West 118th Street
New York, New York 10027

TUFO, JOHNSTON & ALLEGAERT
645 Madison Avenue
New York, New York 10022

By: /s/ Marilyn R. Walter

Attorneys for Plaintiffs in
71 Civ. 847, George Rios, et al.

TO: RICHARD BROOK, ESQ.
DELSON & GORDON
230 Park Avenue
New York, New York 10017

Attorneys for Enterprise Association Steamfitters' Local 638 of U.A. and Union Members of the Joint Steamfitting Apprenticeship Committee

THOMAS A. SHAW, JR., ESQ.
BREED, ABBOTT & MORGAN
One Chase Manhattan Plaza
New York, New York 10005

Attorneys for Mechanical Contractors Association of New York, Inc. and Employer Members of the Joint Steamfitting Apprenticeship Committee

HON. THOMAS J. CAHILL
United States Attorney
STEVEN J. GLASSMAN, ESQ.
Assistant United States Attorney
United States Courthouse Annex
One St. Andrews' Plaza
New York, New York 10007

Attorneys for Equal Employment Opportunity Commission

hours worked outside the normal contract working hours?

A I think I would have to answer this way: The study we are using is based on the reports received in the Fund office which are paid hours, actually compensated hours, and worked hours, and that developed the basis of the whole study.

Q So that any clause by which premium pay is given rather than straight time pay would be reflected there and not only excess hours in excess of seven during the standard worki day, is that correct?

A Basically correct.

Q Concerning the unemployment study, which is 164 and 165, are you familiar with these?

A Yes, I am familiar with them.

Q During the time that you have been with the steamfitters industry fund, from approximately 1963 on, are you aware of any increase in the amount of unemployment?

A We did have some, I believe, about mid-year in 1967 either six or seven--and it ran for about three calendar quarters. It was a construction cycle that occurred on that point, from our records.

Q Were there any other construction cycles you were aware of? Were there any other construction cycles you experienced by reports coming into your office?

A I can't answer anything outside of the steamfitting

This study is based upon--is this study based upon security benefit payments which are given?

A That's correct.

Q What must a steamfitter do in order to receive security benefits?

THE COURT: I thought Mr. Courtney was testifying here because he handles these funds and on the basis of the figures, and I think he has indicated to us he relies on the reports he gets--isn't that right?

A Not in this case, your Honor.

THE COURT: What do you do in this case?

THE WITNESS: For a man to be paid an unemployment benefit from the security benefit fund, he must apply to the fund office and then substantiate the fact that he is receiving an unemployment benefit from New York State, basically.

When we have evidence he is receiving that benefit the supplemental is paid and matches it.

Q If a man is not eligible for New York State Unemployment Benefits, can he get an unemployment benefit from your office?

A Not of this nature, no.

Q So an individual like that would not be reflected in the unemployment study, is that correct?

A That's correct.

Q Is there a certain limit to the number of benefits a man can receive from New York State?

MR. YAEGER: Is there a limit to the number of benefits? I don't understand that.

THE COURT: As I understand that, he receives unemployment from the State for a period of weeks?

THE WITNESS: That's correct.

Q When those benefits stop being paid by New York State and the man no longer has a check or a certificate from New York State, can that man receive unemployment benefits from your office?

A Not of this nature, no.

THE COURT: Yours is purely supplementary to the New York State insurance?

THE WITNESS: That's correct.

Q If a man gets unemployment benefits from the state and gets unemployment benefits from your office, is it possible that benefits would stop because his account runs out?

A Yes, entirely possible.

Q These accounts, are these individual accounts or pool accounts?

A It is legally a pool fund, but the accounts are maintained on an individual basis.

Q So that can a man withdraw or get benefits above and

beyond what he has in his individual account?

A He cannot. A-1057

Q So if a man was unemployed and had no money left in his security benefit fund, he would not be listed on this stud as being unemployed, is that correct?

A That's correct.

THE COURT: How does the credit per employee develop who contributes the money?

THE WITNESS: The employing contractor.

MR. BROOK: No further questions.

CROSS EXAMINATION

BY MR. SHAW:

xx Q Mr. Courtney, I ask you to refer to Exhibit 163, if you have it in front of you, and also to Exhibit 168.

A I have neither.

THE COURT: Could you produce the exhibits?

MR. HARRIS: Mr. Brook was 163 and 164.

MR. SHAW: No, I want the overtime study, 163.

(Pause.)

Q This is the one. (Handing)

MR. SHAW: Do you also have 168?

MR. YAEGER: Yes. (Handing)

Q I refer you to the summary sheet, Mr. Courtney. The third column in that summary sheet are total hours worked durir

overtime per man? A-1058

A Hopefully the program was supposed to do that. We had no way of checking whether it actually did.

Q If you subtract the third column from the first column, what number do you get, what does that number represent?

A That would be, in this particular instance, premium overtime.

Q And those are just counted once at that time?

A That's right.

MR. YAEGER: No further questions.

THE COURT: Any other questions?

MR. BROOK: Yes, your Honor.

xx RECROSS EXAMINATION

BY MR. BROOK:

Q Mr. Courtney, this is a copy of Exhibit 168--oh, I believe you have it there.

A Yes.

Q Couldyou turn to the second page of that, please, and look at the left-hand column where it indicates the numbe of hours and would you just--

MR. YAEGER: Would you refer to the subject number?

MR. BROOK: 168.

Q Could you turn to the second column and just quickl

add up the bottom four figures? A-1059

A Second column?

MR. SHAW: 1970 or 1971?

MR. BROOK: 1971.

A The last four?

Q Yes.

MR. YAEGER: Your Honor, it seems to me that would speak for itself in this case.

THE COURT: If he can add up the last four figures, he will add them up.

Q Will you tell us what that is?

A 2,433.

Q Do you know the approximate membership of the construction branch of 638?

A Approximately?

Q Yes.

A No, I don't think I can give you that figure.

Q Refer to page 2 of the stipulation of facts in the pretrial order--for 1971 there are listed 3,850 members.

Does that seem about right to you?

A I would have to say yes.

Q So that the total number of people who worked a full hypothetical 35-hour week, or 1750 hours, was approximately how many again?

A 2,433. A-1060

Q Out of a membership of 3850. Okay.

Secondly, Mr. Courtney, turning again to Exhibit 1 where a man worked 200 to 300 hours, for example, on the second column going across, assuming he had worked that amou the previous year, about how many payments of security benefits would he have?

A You used the figure 300, counsel? He would genera $150 a year.

Q And approximately how much are the security bene-fit payments?

A Which ones, supplemental unemployment?

Q Yes.

A $75 a week, at the current time.

Q If a man worked 250 hours in 1970, he would have two weeks worth of benefits credited to his account and if he worked 250 hours only in 1971, after two weeks he woul no longer have any money in his account, is that correct?

A That's correct.

Q So that unemployment by a man in this category woul not be reflected or not shown in your unemployment study, is that correct?

A That's correct.

MR. BROOK: No further questions.

say if it is something less than five out of a thousand the probability that this difference could be due to chance causes alone.

MR. FLEISCHMAN: Your Honor, I lost part of that.

THE COURT: Kindly read the answer.

(Answer read.)

THE WITNESS: I could elaborate a little bit and say that the same thing can be stated in this way. The probability is that some systematically differentiating force are at work as between these two groups.

THE COURT: What do you mean by that?

THE WITNESS: Simply that something other than chance causes are at work.

THE COURT: That could be all kinds of things.

THE WITNESS: That is right. As a statistician, I can't say a thing of what it might be. Simply the existence of some forces that are operating in a differential manner.

THE COURT: If there is a personality problem, which is nobody's problem, it could be that.

THE WITNESS: I wouldn't be prepared to stay as a statistical analysis whether it could or could not. The statistical analysis as such gives us no information whatsoever about the contents of those forces. Simply tests for

the existence of forces that are operating in a differential manner. The probability that such foces are operating is greater than 99 and a half per cent. This is the same proposition stated just two different ways. The probability that is only change variation is less than one and a half per cent the probability that it is some kind of systematic differential is greater than 99 and a half per cent.

That is the results of this significance test.

THE COURT: How do you define what you mean systematic differential?

What does that mean?

THE WITNESS: It is simply not change.

THE COURT: But a systematic differentiation could be the product of a lot of forces, couldn't it?

THE WITNESS: That's right.

THE COURT: Independent forces?

THE WITNESS: That's right.

THE COURT: It could?

THE WITNESS: Yes.

THE COURT: So it isn't systematic in the nature it is systematized by somebody to produce it?

THE WITNESS: Only if you think of the whole constellation of forces as in some sense a system.

THE COURT: Maybe, yes. That's right. Maybe the solar system.

News printed?

A I think it is a weekly. One day a week. It comes out on a Thursday.

Q Mr. Kerr, how many apprentices are unemployed at the present time?

A I have 12 apprentices unemployed.

Q How large is the apprenticeship class now?

A 367.

Q Do you have any estimate of the range of unemployment among the apprentices, say, in the last few years?

A Well, it varies. Some days there I would have maybe 15 out of work; the next day I would have maybe 12; then the following week I may have none out of work. Then there would be layoffs and I would have 15 to 20 the next week. Itvaries from one week to the other.

THE COURT: What is the most in the last few years of unemployed apprentices, and how many would there be?

THE WITNESS: I would say 20.

THE COURT: Not much over 20 in the last few years?

THE WITNESS: Yes, about 20.

THE COURT: I see. Then do you know how long the permit men have been?

MR. SHAW: I think Mr. Hopkins can answer the question, your Honor.

THE COURT: That is what I would like to know.

THE WITNESS: As long as I have been around, that is 10 years.

THE COURT: All right.

BY MR. SHAW:

Q From the standpoint of the industry, Mr. Hopkins, in your opinion, based on your experience and on your position, do you think that it is desirable to have more A men from the standpoint of the industry?

MR. FLEISCHMAN: I object, your Honor.

THE COURT: I don't know what that means, Mr. Shaw. I don't know from what point of view you are talking.

MR. SHAW: I am talking from the standpoint of the employers.

THE COURT: All right. From the standpoint of the employers, is it better to have more A men than what?

MR. SHAW: Than permit men.

THE COURT: All right. Based on your A-1065
experience you can answer that question.

A Yes, sir.

Q In your opinion, Mr. Hopkins, how many more
A book men would be desirable from the standpoint of the
employers?

MR. FLEISCHMAN: I object, your Honor.

THE COURT: I think that is pretty specu-
lative. Could you give such an estimate? Wouldn't
that depend onthe jobs and the amount of work and all
that, Mr. Hopkins?

THE WITNESS: I stated before in the testi-
mony before you, Judge, some months back, that I am a
firm believer in that there should be a cushion between
the A force and the number of men working, that is, the
permit men should be two, three, four hundred, reasonably.
But we are now talking 12, 14, 16 hundred people.
That is unreasonable, in my judgment. I think the men
in the union is--if I were there, I would consider myself
entitled to that cushion up above, so actually it is,
from the labor standpoint -- it's a good thing to have
two or three hundred permit men available. From the
employers' standpoint it is good. But when you take
that number and go to 12, 15, 16 hundred and there are

restrictions on the use of those men, then you have got a problem.

Q And that is the problem at the present time, is it not?

MR. FLEISCHMAN: I object, your Honor.

THE COURT: Is it the problem at the present time?

Q Is it the problem at the present time?

A As far as I am concerned, we are sitting here talking about 2500 men taking home two-thirds of the money and what we need is some more numbers and some more color. As far as I am concerned, that is what this is all about.

MR. FLEISCHMAN: I object to the answer.

THE COURT: He made his answer.

Q With respect to welders, Mr. Hopkins, is there a shortage of steamfitters who are capable welders, and has there been over the last year or so?

MR. FLEISCHMAN: I object, your Honor.

THE COURT: I will let him answer if he knows.

A Yes, sir.

THE COURT: On what is your answer based?

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THE WITNESS: On 10 years' experience on the job.

THE COURT: Yes, but there must be a little more than that. You saythere is a shortage of welders. How did that come to your attention?

THE WITNESS: We have a shortage of manpower, and that is a facet of the business.

THE COURT: So you say you have a shortage of welders. Do you have a shortage of riggers and all kinds of these people?

THE WITNESS: A shortage of manpower.

THE COURT: So there is nothing peculiar about welders?

THE WITNESS: Welders is a tool of the trade which is one of the top-flight, one of the strong attributes of the business, and actually as an industry, to satisfy the requirements of the community and the users as an industry, management and labor, we have to have adequate and qualified and, in some cases, certified welders, and that number is not adequate.

BY MR. SHAW:

Q Do you, based on your experience with MCA and in the course of your duties -- have you ascertained an approximate ratio of welders to the total work force

150?

Q 150.

A Yes, I did.

Q With particular reference to the request which is double the previous request in 1972, will you tell the Court why, or the reasons why the decision was made to ask for 300 apprentices in January of this year?

MR. FLEISCHMAN: I object, your Honor.

THE COURT: I will let him answer that.

A Two reasons come quickly. There may be others. One, we, the employers, and I believe we, labor and -- if I may speak -- believe in the main that the apprenticeship route is the best, and we believe in ourprogram and we think it is doing a good job, and therefore we believe that people coming into our industry for a year should come through the apprenticeship program. That is one.

Two, the numbers go up because our stable work force available to us is not satisfactory.

Q That is to say it is too small?

A Sure.

MR. YEAGER: You are referring to the United States Attorney's preliminary injunction? A-1069

MR. FLEISCHMAN: Yes.

(Pause.)

xx CROSS EXAMINATION

BY MR. FLEISCHMAN:

Q When Mr. Shaw asked you all these questions of the need of the additional steamfitters, the question was qualified and your answer was qualified to the need from the viewpoint of the employers, am I correct?

A Yes, sir.

Q In connection with the hearing on the preliminary injunction on December 2, 1971, didn't you respond to the following question:

"Q. Could you elaborate a little on what the prob is?

"A. --

MR. SHAW: I wonder if I could stand next to Mr. Fleischman, since I don't have this transcript?

THE COURT: All right.

I don't understand the question and I think you h go back a question.

MR. FLEISCHMAN: All right.

Q There was a discussion of the problem, as I under-

stand it, of insufficic t work force in the industry and the question as put to y as--

MR. SHAW: I think it goes back, your Honor, to a question that Mr. Harris started off in direct examination.

"Q In your capacity as secretary of the Mechanical Contractors Association, have you had occasion to contact representatives of Local 638 and seek additional manpower from some of the employers?"

And he answered that he had, for several pages, how h asked for a hundred men at the World Trade Center--

THE COURT: Does that bring it back to your mind?

THE WITNESS: Yes.

MR. FLEISCHMAN: Frankly, I think the answer can stand alone without a question--

MR. SHAW: I see. The problem was that the answer Mr. Tracy gave was "no, you can't have the men you request."

Q What happened subsequently?

A Nothing.

THE COURT: Wait, wait, Mr. Fleischman is supposed to be cross examining.

"Q Could you elaborate a little on what the problem is?

"A Well, basically, the problem is that the employers would like to have men standing in the street so that

they would be the boss and the labor man, to protect himself, has to maintain a shortage in that particular product. I think what we are in in this particular area when I spoke is to maintain the shortage but let's be reasonable so that we can close the gap here somewhere."

Do you remember that answer?

A Yes, sir. I think that is what I just said here before.

Q The employers would like an over-abundance of steamfitters, am I correct?

A Absolutely.

Q Do you know of an industry stablization fund or advancement fund in connection with the steamfitting industry?

A Steamfitting Industry Promotional Fund, do I know i

Q Yes.

A Yes, I do.

Q What is this fund?

A It is a fund contributed to by the employers, agree upon by labor, to enhance the status of our joint family with the community in order to provide a better opportunity for both of us to make a living and fulfill a mission.

Q Does this fund have trustees?

A Five, I believe.

Q Are you one of the trustees?

period you would not be talking about overtime, you would be talking about furnishing enough men to do a job.

Q There would be times when even assuming that overtime was being worked there would not be enough steamfitters to finish a job within the time contemplated by the contract?

A I don't know that.

Q From your experience as secretary of the Mechanical Contractor's Association, to what do you attribute the absence of sufficient numbers of journeymen in the union?

A The United States Government.

Q Why is that?

A It allows it to exist.

Q It allows what to exist?

A The manpower shortage.

Q How specifically does that work?

A It is a product of the times.

Q Specifically what does the United States Government do that prevents Local 638 from creating new journeymen?

MR. SHAW: Perhaps the word should be permits them.

MR. YEAGER: EIther way, he said the Unites States Government causes it. What does the Unites States Government do that allows it?

THE WITNESS: What does the United States Government do when we don't have enough teachers or we don't have enough doctors? What does the United States Government do when we don't have enough volunteers? You tell me that and then I will tell you what they don't do.

Q I am not trying to argue with you, Mr. Hopkins, about your political philosophy but I would be interested in knowing specifically what structural things you see right now as preventing the union from creating additional journeymen and I am talking about within your industry?

A Can I have the question again?

Q Specifically what elements of the structure of the steamfitting industry at the present time allows the union to restrict the available supply of journeymen?

A It is too complicated for me to answer.

Q Do you know the answer?

A Not all the answer, no.

Q Do you know part of the answer?

A Failure to endorse the Equal Employment Act.

Q Is there any other part of the answer?

A I don't know.

Q The only structural block to journeymen in the steamfitting industry is failure to endorse the Equal Employment Act, is that correct?

MR. SHAW: I don't understand what you mean by structural.

MR. YEAGER: The organization of the industry, I think that Mr. Hopkins is probably familiar with that after having worked with it for eight years and I think it is pretty clear that I am asking him questions about what specifically restricts the available supply of journeymen and how does that happen?

MR. SHAW: Let me refer you again to the proceedings before Judge Bonsal in which it was made, I think, quite clear that de facto a closed shop exists in the construction industry.

MR. YEAGER: If that is what Mr. Hopkins thinks, I would like him to state that.

MR. SHAW: I am referring you to that fact.

MR. YEAGER: I would like to know what Mr. Hopkins thinks about that.

Q Specifically, is it your opinion that there is a closed shop?

A I have no comments along those lines. I am not that equipped. All I can tell you is that it is a shortage of manpower.

Q And in your eight years you have gained no impression as to what causes that shortage of manpower? That is, other than the Equal Employment Acts are not enforced?

MR. SHAW: The union does not have the men, does not admit them to the union. They aren't there. You are asking why the union does not have them and he is not aware of the workings of the union mind, I gather. This is a question better put to the union.

MR. YEAGER: I am not asking him of his opinion as to the workings of the union.

MR. SHAW: He testified the end result is that there aren't enough journeymen supplied by the union.

MR. YEAGER: What in his opinion from his familiarity with the industry are the causes of that

program in the steamfitting industry, Mr. Hopkins?

A Yes.

Q Do you attend meetings of the Joint Apprenticeship Committee of the Steamfitting Industry Educational Fund?

A Yes.

Q I will refer to that committee as The Committee for awhile, if you will allow me.

Is it your opinion that there are enough apprentices at the present time?

A ~~It's within reason at the present time.~~ NO

Q When you say within reason --

A I am assuming, I don't have the figures in front of me, that it is somewhere in the neighborhood of three hundred fifty, somewhere in there. It should be higher than that. That is what I am saying.

Q Have you specifically recommended in the meetings of the Joint Apprenticeship Committee that it should be higher than that?

A I have recommended a regular indenturing of classes on a semi-annual basis which would give you that result, yes.

Q Have you suggested a specific number?

A Yes.

Q Do you recall what that number was?

A Two classes of seventy five a year. in 1966 and 1967 + 2 classes of 150 each in 1972

Q When did you suggest that to the union?

A Most recently in January of this year in our interchange of proposals we suggested 2 classes of 150 each

Q When did you first suggest it to the union?

A '66.

Q Was it ever acted upon favorably by The Committee?

A Not in that number, no.

Q Was any specific Number ever adopted by the Joint Apprenticeship Committee?

A Yes.

Q What was that number?

A Fifty.

Q Is that --

A Two classes of fifty.

Q Referring to two classes of fifty each year, is that correct?

A Yes.

Q Was that adopted by a resolution of The Committee?

A It's in the minutes of the Joint Apprenticeship Committee records, yes, sometime around '69, I

things. Your Honor of course has in mind the Government did not sue MCA except for the limited purpose of eventual relief and did not make any assertions of discrimination against MCA.

On the other hand, Mr. Yeager in his action did do so. We made a motion to dismiss Mr. Yeager's contentions and I am not clear --

THE COURT: I am afraid I am going to rule and I haven't ruled yet, that I think MCA is an employer within the meaning of the statute on the basis of a number of cases. I think that is what I am going to rule.

From the point of view of equitable relief only. This doesn't apply to any legal relief but from the point of view of equitable relief.

Inother words, what I am trying to do here, really, is to work out a program which inevitably has got to involve you and the unions and JAC -- we are going to have to lick this whole thing together and I think the past record, the past record pretty well satisfies me that for one reason or another and I am blaming nobody, I want to make that quite clear, because I think these problems have not arisen because of any deliberate plan of discrimination but it has grown to be discrimination over a long period of time, and it is a little hard for me to say that

on the basis of the past that it isn't somethingthat has beenshared in by employers and the unions and perhaps a great many other people, perhaps all of us are partly guilty of it.

What has happened, of course, is that after the passage of the statute and even before the statute, provisions in Government contracts on the subject of discrimination, they have caused some change, but not enough. What I am hoping here that we can, in this realm anyway, grapple with this problem together and all agree we are not going to discriminate in the future, and that we are going to work out an affirmative program to see that we don't, to the best of our ability as human beings.

MR. SHAW: I am not quite clear and I would hope -- I hope that you will grant our motion, there will be no finding of fact of discrimination on the part of MCA, although you say you are going to find the status of a employer under the Act. I would press our motion to dismiss as to the Rios action. I understand, and we have not placed any great problem about being a proper party, in fact we stipulated, for the limited purpose of the rule cited by the Government.

And I would hope that the inclusion of MCA would be solely within that rule because I really don't

MR. HARRIS: On costs, I don't think that there will be some. Of course, we would always like an opportunity in case.

THE COURT: I will give the plaintiffs ten days more, to March 10th, to put in any replies they want.

MR. HARRIS: That is fair enough.

MR. SHAW: Your Honor, we may have some questions that we would like to put to the plaintiffs as to certain details of breakouts of some of these numbers. I take it we can do that in an informal fashion?

THE COURT: Agsolutely. The more you fellows work out informally the better I would like it. That is fair enough.

Now, gentlemen, at the last meeting we went through the first part of the affirmative action program. I have circulated to you today two things. The first is the nature of the order that I suggest we end up with when we finally agree on the affirmative action program rather than have it in the form of another decree and judgment as it was before.

The second document which you have is a rewrite which Bob Barrett made following our discussion the other day of the first part of it with a view to simplifying it considerably and perhaps giving it a little more

aged to resolve all the disputes and try pretty hard before they approach Mr. McDonnell.

THE COURT: What Mr. McDonnell is saying is"the parties shall in good faith seek to resolve all disputes arising in connection with the apprenticeship program. If they are unable to do so, such disputes shall be referred to the Administrator to here and determine."

That is really what you have in mind?

MR. MC DONNEL: Yes, it is.

THE COURT: Would you go for that?

MR. KATZ: I have one problem. All along we felt that the United States Government is capable of representing minorities as a whole, and if there is going to be any reason for attorneys fees, and if you are going to have all the parties continually involved over the whole four-year range of this affirmative action program in this fashion, it seems to me we would like to see the government be given the responsibility of representing all the plaintiffs if for no other reason than we would like to have it continued, if there is going to be any to begin with, additional cost, because we do feel the government can adequately represent the plaintiffs.

MR. HARRIS: May we respond to that, your Honor?

THE COURT: I think we are getting off. I am

conscious of the problem you are raising, and I would not like to raise it here in connection with this apprenticeship program. I think that is a problem I would like to see you raise in your answering papers to these motions. That is really where it comes.

It can be a suggestion if you want to make it there.

The plaintiffs want costs, the government wants costs, the plaintiffs want back pay, all that sort of thing.

It seems that is the place to raise it because these are on-going problems. I would welcome you raising that and I want to consider it, but I don't think it hits us right here. I think from the point of view of starting out with this program we ought to provide that the parties in good faith are going to try to resolve their disputes and if they don't then the Administrator will hear and determine.

MR. KATZ: As I say, I have no objection to the parties doing that. It is just a question of if we are going to put that language in what will that mean in terms of the representation?

THE COURT: Once we get the affirmative action program going I recognize a problem on tne Rios plaintiffs.

I think they do, too. They are not making a life of this. I think they might want to go on and get into other cases where they think there has been discrimination. I see your problem in that, and I want to hear from you on that, too, but this isn't the time.

Right now we are trying to sit down and launch an affirmative action program and get it on the board.

MR. YEAGER: I thank you for that vote of confidence.

THE COURT: The time is going to come when I can see -- and I think the union can properly raise the point and I am going to have to consider it, and I am going to have to talk to you fellows about it and resolve how do we streamline the thing and make it go properly, and how much can the government do and take over.

But I don't think I want to do it now.

Then we can revise this 8, which is now 16, in accordance with that. Then 15, direct admission to the A branch --

MR. BROOK: One point which I think is probably understood but might need some clarification, and that is that the disputes which can be determined after the parties try to resolve them would be in the nature of discrimination type complaints rather than, let us say --

Secondly is the problem of unemployment which the Union brought to my attention with a brief dated June 10, 1974 and which is also highlighted in Mr. McDonnell's letter and report of June 21, 1974.

I want both of those appended to the record of this meeting today so that the content will be noted.

Then, if we get through those things, I have some other minor problems that I would like to review with you. But I would suggest that we proceed with those two topics first.

On the Court of Appeals opinion, as I read it, the Court had this to say: "In the present case it is undisputed that a certain percentage of the total labor force within the Union's territorial jurisdiction would, in the absence of discriminatory practices, have been eligible for membership in the Union's A Branch, either directly or through the apprenticeship program."

Then it goes on to say:

"Statistics as to the population of this work force during the pertinent period should provide a more accurate base than total population statistics for determining what would have been the percentage of non-white membership, absent discrimination, in the

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA (E.E.O.C.), Plaintiff, -against- ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 of U.A., et al., Defendants.	71 Civ. 2877
GEORGE RIOS, et al., Plaintiffs, -against- ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 of U.A., et al., Defendants.	71 Civ. 847

FACT BRIEF ON BEHALF OF ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 of U.A. TO THE ADMINISTRATOR PURSUANT TO PARAGRAPH 26 OF THE AFFIRMATIVE ACTION PLAN

PRELIMINARY STATEMENT

Pursuant to the provisions of Paragraphs 26 and 33 of the Affirmative Action Plan (hereinafter referred to as "AAP") and the procedure established by the Court (Transcript of Conference of March 15, 1974, pp. 18-20, 58) the Union hereby requests a ruling to temporarily halt the testing and/or admission of applicants to the Union at this time in light of severe unemployment and to enable the Union to sustain and meet the annual goals set forth in Paragraph 3 of the AAP.

There is widespread unemployment among steamfitters so that the addition of more individuals to the steady work force will create a hardship on current and new

members alike. In addition, as large numbers of whites are admitted at this time, the ratio of non-whites to white members may be decreased to a point below the goals required by Paragraph 3.

The Court strongly stated its desires to interfere as little as possible with the internal affairs of the Union and reiterated that the purpose of the suit was to enhance the rights of non-whites. Transcript of Conference of February 8, 1974, pp. 9, 45-46, 51-2, 67. Thus, the Court stated during the Conference of February 8, 1974, pp. 28-29 as follows:

> THE COURT: I am not trying to run JAC or anybody else, all I am trying to do is have a program to accomplish the goals we have in the affirmative action program for the non-whites.
>
> I don't want to have this thing develop into a situation where either McDonnell or I are running the JAC or the Union or MCA. That is the last thing we want to do. It seems to me that the sentence which is in here, which is related to the affirmative action program, applies only to non-whites. What happens with regard to the other people it seems to me is up to JAC or the union, whatever they want to do.

The Administrator has expressed the same viewpoint. Transcript of Conference of February 8, 1974, p. 29; Transcript of Conference of March 15, 1974, p. 44.

The Court recognized the danger of overcrowding the Union, of a depressed building industry and of the need to readjust the flow of admissions pursuant to the AAP should the economic situation depicted by the Union be factually demonstrated. Transcript of Conference of February 8, 1974, pp. 61-62; Transcript of Conference of March 15, 1974, p. 58.

THE FACTS

There is widespread unemployment in the steamfitting industry affecting every group of individuals--long term white members, non-white members, non-white and white apprentices, Trainees and non-members. Ordinarily, it would be difficult to demonstrate the extent of unemployment because the data published by the New York State Department of Labor are aggregates of employed people and the Steamfitters' Industry Fund Office, as well, does not measure unemployment as such.

Nevertheless, the severity of the problem is so great that the fact of widespread unemployment is, unfortunately, readily apparent. The building industry in this area is in the midst of a depression. Much of the problem has occurred because the decline in work opportunities has occurred at the same time that over 800 new members entered the Union, pursuant to Court Order (by means of the 1973 apprenticeship classes, passage of the practical examination and the commitment to admit New York Plan Trainees). Transcript of Conference of January 21, 1974, p. 3.

This presentation will document the fact that there are at least 850 unemployed members at this time and at least 1,500 "members" as defined by AAP ¶4.

I. THERE ARE AT LEAST 850 UNEMPLOYED MEMBERS AND 1,500 UNEMPLOYED "MEMBERS" AT THIS TIME

The Union's Business Agents at the request of Mr. William J. Daly, Business Agent At Large, counted the number of men employed within their respective territories; their report to him on April 24, 1974 indicated that 3,225 men were employed. See Exhibit A hereto, Letter of Daly.

If only members are counted, the following is the result:

	5,000 -	approximate number of members (counting journeymen, apprentices, Trainees and pensioners)
less	3,225	men employed
equals	1,775	
less	866	pensioners and Trainees
	859	unemployed members

If members are defined in accordance with AAP ¶4 (as set forth in Letter of Courtney, Exhibit B hereto), there is a much larger number of unemployed steamfitters.

	3,334	journeymen who whorked 1 hour or more
	66	Trainees
	23	on disability
	636	apprentices
	696	permitmen who worked 800 hours or more
	4,755	total "membership"
less	3,225	employed
	1,530	total unemployed

The unemployment figure of 1,530 is verified and completely confirmed by a totally different source. Exhibit C hereto, an Inter Office Memorandum of the New York State Department of Labor, Research and Statistics Office shows that as of March 31, 1974 the number of unemployed plumbers and pipefitters in New York City and Nassau and Suffolk Counties was 1,632. Since there were only 109 unemployed plumbers, the number of unemployed pipefitters is 1,523.

Two different methods of computation from separate sources show that about 1,500 "members" out of a total of approximately 4,750 are unemployed--over 31% of the total. This degree of unemployment--nearly a third of the work force--reveals an economic crisis of dire proportions. Without any more evidence, it is submitted that the Union is entitled to immediate relief.

The additional documentation provides a long range view and the broadest context in which the above

conditions exist.

II. THE NUMBER AND AMOUNT OF UNEMPLOYMENT BENEFITS PAID BY THE STEAMFITTERS' INDUSTRY SECURITY BENEFIT FUND HAS SHARPLY INCREASED DURING 1974

The letter of Mr. Courtney, the Fund Administrator, to Mr. Brennan, President of the Union, Exhibit D hereto, shows that the amount of money paid out in unemployment benefits for the first quarter of 1974 is $339,527, as compared with only $55,389 for the same period in 1973; the 1974 figure is more than six times greater than the 1973 figure. Between 1969 and 1973 the greatest amount of benefits paid for this period was only $93,062, in 1971; thus, a major jump of more than three and one-half times the greatest payments in recent history is shown.

Another factor indicating the severity of unemployment shown by these figures is that the $339,527 in benefits paid for the first quarter of 1974 exceeds the total benefits paid for the entire year of 1970 and the entire year of 1973! It should be noted that the third quarter of 1972 was the strike period and that is the only quarter since 1969 in which the benefits paid were greater than those paid in the first quarter of 1974.

Finally, Exhibit II of Exhibit D hereto illustrates a sharp increase from the Fund in the number of men receiving unemployment benefits in each of the first four months of 1974, as compared with 1973.

NUMBER OF MEN RECEIVING UNEMPLOYMENT BENEFITS

	1973	1974	% increase
January	116	247	112%
February	64	284	343%
March	75	458	510%
April	61	448	634%

A measure of the frequency of payment, the total number of weeks of benefits received by all men during the entire first third of 1974, was 4,611 as compared to 948 benefit weeks paid in the first third of 1973, an increase of 386%.

All men who receive the unemployment benefits from this Fund must bring proof that they are among the unemployed (they must show the State unemployment check) but not all those who are unemployed receive the benefits (they may not apply or they may not have a credit in their account or they may not be eligible for State benefits). The dramatic increases in the number of men receiving the benefits and in the frequency of payments, show a great increase in unemployment this year.

III. OVER ONE-THIRD OF THE APPRENTICES ARE UNEMPLOYED

This is an industry in which apprenticeship classes historically averaged 50 in number. With hundreds of apprentices poured into the program, the result predicted by the Union has occurred--massive unemployment. A letter from the Director of Apprentices, attached hereto as Exhibit E indicates that 214 out of 568 apprentices (37.6%) are unemployed. Nor is the unemployment restricted to first year apprentices. The excessively high 37.6% unemployment rate, more than one-third of the total, among apprentices is reflective of the overall unemployment of 31% on an industry-wide basis, shown in Point I, supra.

IV. NEW YORK STATE DEPARTMENT OF LABOR STATISTICS SHOW A DECLINE IN EMPLOYMENT AND INCREASE IN UNEMPLOYMENT IN THE CONSTRUCTION INDUSTRY

In accordance with the Standard Industrial Classification Manual published by the Executive Office of the President, Bureau of the Budget in 1967 there are three

major construction groups: SIC 15, 16 and 17, which together constitute what is known as contract construction. SIC 15 consists of only building construction general contractors, while SIC 16 consists of only non-building construction general contractors. SIC 17 consists of special trades contractors who undertake specialized activities such as carpentering, steamfitting, painting, plastering, etc. and who are engaged in work related to building construction rather than heavy or engineering construction. Within SIC group 17 there is an industrial class, SIC 1711, which consists only of those spcial trade contractors who are primarily engaged in heating (except electric), plumbing, air conditioning, and similar work or any combination of these types of work. Steamfitting contractors specifically fall within SIC 1711. The employment figures in Exhibit F attached hereto show a dramatic overall decline from the third quarter of 1970 through the first quarter of 1974 in the construction special trade contractors industry group, SIC 17. There can be no doubt that employment has substantially slackened in the major industrial group in which steamfitting contractors are members.

Exhibit G attached hereto illustrates the insured employment within SIC class 1711 (the special trade contractors within industrial group SIC 17 which are engaged in heating [except electric], plumbing, air conditioning and similar work, of which steamfitting contractors are substantially represented) for years 1969 through 1973 for New York City and Nassau and Suffolk Counties. The yearly averages manifest the fact that 1971 (the year for which the Court based its conclusion that there was a shortage of steamfitters) was a peak year of employment for that class and that there was a decline from the third quarter of 1971 through the third quarter of 1973 in

the employment within SIC class 1711. An examination of Exhibit G, reading across for each month, indicates a decline in 1973 from the peak years of 1971, 1972.

The most specific documentation of unemployment among steamfitters within the Union's territory, is shown by Exhibit C, which is based upon as yet unpublished figures. As of March 31, 1974, there were 1,632 unemployed plumbers and pipefitters in New York City and Nassau and Suffolk Counties. By subtracting the 109 unemployed plumbers, there is statistically proven unemployment of 1,523 steamfitters. On a statewide basis, Exhibit C reveals that there were 3,478 unemployed plumbers and pipefitters--nearly three times the amount of such unemployment for this group last year (1,226 in March, 1973).

These figures are confirmed by the opinions of experts in the field. The Secretary-Treasurer of the Building and Construction Trades Council of Greater New York stated in a letter dated April 24, 1974, Exhibit H hereto, that there are "approximately 12,000 members unemployed with no sign that this figure will level off."

The Secretary-Treasurer of the Building and Construction Trades Council of Nassau and Suffolk Counties, by letter dated April 29, 1974, Exhibit I hereto, stated that "the various building trades in the area have approximately 22,000 unemployed mechanics at the present time and that at least 25% of all of the trades are unemployed." The letter concludes by stating: "The coming year does not look too promising for construction workers."

The Industrial Commissioner of the State of New York, Louis L. Levine, in announcing that unemployment figures for the State increased from last year and were higher than national figures, characterized the rates as "high" and stated that the principal causes were "a virtual

standstill in the building industry" as well as materials shortages and a depressed Wall Street securities industry. See Exhibit J hereto, New York Times, April 13, 1974, pp. 1, 15.

The industry-wide figures, the statistics for the steamfitting industry and recognized industry employment experts reveal high and continued unemployment.

V. THE BUILDING AND CONSTRUCTION INDUSTRY IS IN DEPRESSED STATE AS SHOWN BY THE DECLINE IN NEW BUILDINGS

It is estimated by an industry expert that there is "at least a six-year inventory of downtown office space to absorb" in New York City (see Exhibit K hereto, New York Times, April 21, 1974, Section 8, p. 10, quotation of Saul Shiefman).

This conclusion was shared by other experts whose collective opinion is that "the City is overbuilt [illegible] must use its surfeit of office space before building more." See Exhibit L hereto (New York Times, February 3, 1974, Section 8, pp. 1, 6). Exhibit L contains charts showing a tremendous volume of available rental space. The article continues to state that "The estimated vacancy rate--more than 10 per cent--was 20 times its level in 1967."

The table reproduced in Exhibit L is apparently based on the Studley Reports, a monthly publication put out by a real estate broker specializing in leasing office space in the newer buildings completed and to be completed in Manhattan. These reports are widely used by members of the construction and real estate industries as an indication of office space presently available or to become available.

Exhibit M hereto is a composite of various Studley Reports. The most salient trend to be gleaned from

Exhibit M is that during the period from March, 1970 to March, 1974, as more and more of the office construction in Manhattan has been completed, the amount of completed space still available has increased dramatically, while the amount of space which has been leased has decreased. The space being leased has been slowly decreasing over the past three years and there is a great amount of available space. Therefore, it is reasonable to assume that construction of new office space will decline in the face of an abundant supply and a slowly decreasing demand.

These dire long term predictions are supported by the facts and figures set forth below in Exhibits N through Q.

Exhibit N hereto is a chart indicating the number of New Housing Units in thousands for which building permits were issued yearly between 1968 and 1973 in New York City and Nassau and Suffolk Counties. The total for 1973 of all the new housing units for which building permits were issued in the area (35,678) is below the average of the totals for the previous five years (38,014) and far below the figure for 1972 (52,775).

The comparisons between the number of permits for the first quarter of 1974 and the first quarter of prior years shows an even more precipitous drop in the number of new housing units.

The total for the first quarter of 1974 is only 4,456, the lowest figure since 1968. The drop in permits for units of five families or more, which provide a great share of the work, is even worse. Only 427 such permits were issued in the first quarter of 1974, less than half the 1,040 in the first quarter of 1973 and far below the first quarter average of 3,198 for the years 1969 through 1973.

In sum, housing construction is down in New York

City (Exhibit O hereto, New York Times, March 24, 1974, pp. 1, 52) and in Nassau and Suffolk Counties (See Exhibit P hereto, New York Times, May 26, 1974, Brooklyn, Queens, Long Island Section, p. 4).

Exhibit Q hereto reflects the dire situation in the construction of both commercial and residential buildings. Exhibit Q indicates the number of dollars in thousands of the cost of new residential construction, new non-residential construction and additions and alterations estimated on building permits issued yearly between 1968 and 1973 in New York City and Nassau and Suffolk Counties. The total for 1973 of the estimated cost of all construction in the area (1,671,631) shows a marked decline compared with the figure for 1972 (1,993,910).

A comparison of the first quarter of 1974 with the first quarter of prior years shows an even more precipitous drop in the expenditures for construction. The cost of construction for the first quarter of 1974 (263,981) was almost <u>half</u> the amount (48%) of the comparable period in 1973 (510,982) and 24.9% lower than the average since 1968 (351,621).

All of the above demonstrates that the construction industry is in a depressed state and every indication is that it will get worse.

<u>CONCLUSION</u>

During the trial in this case, the employers' principal spokesman, Mr. Joseph Hopkins, Secretary of the Mechanical Contractors Association of New York, Inc., admitted that the employers wanted an overabundance of steamfitters and that they "would like to have men standing in the street so that they [the employers] would be the boss." Transcript of Trial, pp. 1146-1147. The employers' dreams

have been fulfilled, because there are now 1,500 steamfitters "standing in the street" unemployed, at least 850 of whom are members of the Union--journeymen as well as apprentices. (Point I, supra). Nearly one-third (over 31%) of the Union's "membership" as defined by the AAP is unemployed.

Security Benefit Fund unemployment benefits have jumped in terms of the number of recipients (more than six times as many in April, 1974 than in April, 1973), duration of benefits and dollar amounts paid (Point II, supra).

More than one-third (37.6%) of the apprentices are unemployed (Point III, supra).

The employment picture in the construction industry is bad and is getting worse; other trades are affected and over 1,500 pipefitters were out of work as of March 31, 1974 (Point IV, supra).

There is a depression in the construction industry in New York. The cost of building of commercial and residential buildings is down by nearly one-half (more than 48 percent) in the first quarter of 1974 from the first quarter of 1973 and will get worse because New York is "overbuilt" (Point V, supra).

When additional Labor Department statistics become available, they will be submitted to the Administrator. In addition, the Union would welcome a reporting system which would measure unemployment based on the contractors' reports to the Fund Office. Despite the possibility of additional evidence of unemployment, it is submitted that overwhelming proof of massive unemployment is contained in this document.

The Union respectfully submits that the unemployment in this industry has reached crisis proportions and

that immediate relief is required--total cessation of all examinations and/or admissions to the Union until the Administrator and the Court are pursuaded that this severe unemployment has abated.

Dated: New York, New York
June 10, 1974

Respectfully submitted,

DELSON & GORDON
Attorneys for Enterprise Association
Steamfitters Local 638 of U.A.

Richard Brook,
Of Counsel

ENTERPRISE ASSOCIATION

A-1098

OF

STEAM, HOT WATER, HYDRAULIC, SPRINKLER, PNEUMATIC TUBE, COMPRESSED AIR, ICE MACHINE, AIR CONDITIONING AND GENERAL PIPE FITTERS OF NEW YORK AND VICINITY A.F.L.-C.I.O.

STEAMFITTERS LOCAL UNION 638 OF THE UNITED ASSOCIATION

Secretary's Office
841 BROADWAY
NEW YORK, N.Y. 10003
Phones: ORegon 4-3937
ORegon 4-0030-31-32

MEETS AT
ROOSEVELT AUDITORIUM
100 East 17th Street
New York City, N.Y.

May 21, 1974

Richard Brook, Esq.
Delson & Gordon
230 Park Avenue
New York, New York 10017

Re: Unemployment

Dear Mr. Brook:

In connection with the brief you are preparing to document the widespread unemployment among steamfitters, this will inform you that I requested the Union's Business Agents to count the number of men employed on the jobs within the r respective territories. On April 24, 1974 the Business Agents reported the results of their inquiries; the total number employed within this Union's jurisdiction was 3,225 men.

The Union has approximately 5000 members (counting journeymen, apprentices, trainees, and approximately 800 pensioners) so that a minimum of 925 members are out of work. The situation has gotten worse, not better, within the past few weeks and every indication is that unemployment will continue to increase among steamfitters.

Very truly yours,

William J. Daly

William J. Daly
Business Agent At Large

THE STEAMFITTERS' INDUSTRY FUND OFFICE

A-1099

75 EAST 45TH STREET, ROOM 3000, NEW YORK, N.Y. 10017
TELEPHONE 686-4340

PENSION FUND
WELFARE FUND
SECURITY BENEFIT FUND
VACATION PLAN
EDUCATIONAL FUND

May 29, 1974

Vincent E. McDonnell, Esq.
127 East 35th Street
New York, New York

Dear Mr. McDonnell:

In accordance with Article Fourth of the Court Order issued March 29, 1974, I am supplying to you the information requested in Section II, "The Plan", Item 4 and Item 5.

1) For the period April 1, 1973 to and including March 31, 1974, 3,334 Journeymen Steamfitters worked at one or more hours during the "year".

2) The number of Journeymen on Disability Status who may revert to a work status in the future is twenty three (23). These men are on Disability Status in our Welfare Fund. This means that for an indeterminate period of time they cannot perform the work of a steamfitter.

3) As of March 31, 1974, there are 636 individuals registered in the Apprenticeship Program.

4) Based on records currently available to the Fund Office, there are 66 Trainees registered in the Steamfitting Industry in a program (New York Plan for Training) of not more than 4 years duration.

5) Within the period April 1, 1973, to and including March 31, 1974, 696 permit men worked at least 800 hours during this 12 month period.

If I may revert back to Item (1) of Section 4 I (The Administrator), the Fund Office is not equipped to render a report relative to men who "are available to be considered for work".

I sincerely hope the above supplies the necessary information as called for in the Court Order referred to above.

Very truly yours,

T. F. Courtney

Thomas F. Courtney
Administrator

TFC/mp

cc: Vincent E. Brennan
Joseph L. Hopkins
Lloyd V. Almirall, Esq.
Ralph Katz, Esq.

A-1100

DEPARTMENT OF LABOR - INTER-OFFICE MEMORANDUM

Date: May 9, 1974

To: Commissioner McMahon

Office: Administration

From: Abraham J. Berman

Office: Research and Statistics

Subject: Unemployed Plumbers and Pipefitters

As of March 31, 1974, the number of plumber and pipefitter applicants at the Employment Service in New York State were as follows:

New York State	3,478
New York SMSA	1,912
New York City	1,325
Nassau-Suffolk	307
Westchester-Rockland	280

In the State and the SMSA there were only 109 plumbers in the file, so that the remainder is primarily fitters. For the group as a whole, there were only 1,226 applicants as of March 31, 1972.

Abraham J. Berman

Abraham J. Berman
Assistant Director

AJB:ns

A-1101

THE STEAMFITTERS' INDUSTRY SECURITY BENEFIT FUND

75 EAST 45TH STREET, ROOM 3000, NEW YORK, N.Y. 10017

TELEPHONE 686-4340

VINCENT E. BRENNAN
WILLIAM DALY
EDWARD BOYLE
UNION TRUSTEES

JOSEPH L. HOPKINS
ROBERT J. KEARNEY
J. ROBERT MANCE
EMPLOYER TRUSTEES

June 4, 1974

Mr. Vincent E. Brennan
Enterprise Association
841 Broadway
New York, N.Y. 10003

Dear Mr. Brennan:

You had requested of me certain figures relative to unemployment benefits paid by the Security Benefit Fund.

I sincerely hope the two attached exhibits will answer your inquiry.

If you have any additional information you require, I would be pleased to discuss it with you at your convenience.

Very truly yours,

T. F. Courtney

Thomas F. Courtney
Administrator

TFC/mp
enc.

A-1102

STEAMFITTERS' INDUSTRY SECURITY BENEFIT FUND

UNEMPLOYEMNT BENEFITS PAID
(WHOLE DOLLARS)

EXHIBIT I

	1969	1970	1971	1972	1973	1974
1st. Calendar Quarter	$ 73,470.00	$91,635.00	$93,062.00	$88,394.00	$55,389.00	$339,527.00
2nd. " "	111,575.00	81,778.00	109,394.00	111,334.00	45,787.00	X
3rd. " "	160,425.00	76,677.00	107,594.00	413,013.00	61,770.00	X
4th. " "	81,104.00	46,490.00	65,801.00	331,337.00	93,461.00	X
TOTAL	$426,575.00	$296,580.00	$375,850.00	$944,078.00	$256,408.00	
				FIRST QUARTER ONLY		$339,527.00

A-1103

STEAMFITTERS' INDUSTRY SECURITY BENEFIT FUND

UNEMPLOYMENT BEN[illegible] PAID

(WHOLE DOLLARS)

EXHIBIT II

	1973		1974	
	No. of Men	No. of Weeks	No of Men	No. of Weeks
JANUARY				
Const. Trades	78	237	161	568
Apprentices	4	8	10	31
Metal Trades	27	76	64	220
Other	7	29	12	43
	116	350	247	862
FEBRUARY				
Const. Trades	39	125	177	463
Apprentices	1	1	11	27
Metal Trades	20	47	92	222
Other	4	14	4	14
	64	187	284	726
MARCH				
Const. Trades	49	205	256	862
Apprentices	1	4	25	67
Metal Trades	19	34	156	595
Other	6	18	21	63
	75	261	458	1,587
APRIL				
Const.Trades	41	110	277	890
Apprentices	X	X	20	62
Metal Trades	16	32	133	434
Other	4	8	18	50
	61	150	448	1,436

A-1104

STEAMFITTERS' INDUSTRY SECURITY BENEFIT FUND

UNEMPLOYMENT BENEFITS PAID
(WHOLE DOLLARS)

EXHIBIT IV Page 2

	1973		1974	
	No. of Men	No. of Weeks	No. of M	No. of Weeks
RECAP:				
Const. Trades	207	677	871	2,783
Apprentices	6	13	66	187
Metal Trades	82	189	445	1,471
Other	21	69	55	170
	316	948	1,437	4,611

JOINT STEAMFITTING APPRENTICESHIP COMMITTEE
OF
THE STEAMFITTERS' INDUSTRY EDUCATIONAL FUND

75 EAST 45TH STREET, ROOM 3000, NEW YORK, N.Y. 10017
TELEPHONE 679-2978

VINCENT E. BRENNAN, CHAIRMAN
WILLIAM J. DALY
ROBERT P. EGAN
JOHN J. WILCOX
UNION REPRESENTATIVES

HOWARD A. KERR
DIRECTOR OF APPRENTICES

BERNARD REISSMAN, VICE CHAIRMAN
JAMES B. RICE
JAMES K. BERMAN
EDMUND KATZEN
EMPLOYER REPRESENTATIVES

June 4, 1974

Mr. Richard Brook
Delson & Gordon
230 Park Avenue
New York, New York 10017

Dear Mr. Brook:

Please be advised that the following numbers of apprentices were unemployed as of June 4, 1974:

Indentured	Year	Number	Number unemployed
January 30, 1968	5th	1	0
September 17, 1968	5th	1	0
April 1, 1969	5th & 4th	11	6
March 16, 1970	5th & 4th	43	11
August 25, 1970	4th	44	9
January 4, 1971	4th	45	13
June 15, 1971	3rd	55	10
September 10, 1973	1st	224	66
December 20, 1973	1st	144	99
Total		568	214

Very truly yours,

Howard A. Kerr
Director of Apprentices

HAK/e

SIC 17 (Construction - Special Trade Contractors)

Average[1] Employment (in thousands) in New York City

Year	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Yearly Average
1968	69.8	75.3	74.7	75.1	73.7
1969	71.1	77.1	76.6	76.4	75.3
1970	74.1	79.1	81.1	81.0	78.5
1971	74.1	79.5	80.4[3]	79.3	78.3
1972	73.6	76.9	66.1[3]	71.7	72.1
1973	69.8[2]	73.1	73.6	73.4	72.5
1974	69.0[2]	not available			

Source: New York State Department of Labor, Division of Research and Statistics Employment Statistics - Volume 10, pp. 47, 50, and 53 Employment Review - Volume 26, Number 2, p. 37.

1. Quarterly figures represent averages of the published appropriate three months while yearly average is as published.

2. As yet unpublished but quoted by Ms. Estelle Shrifte, Chief Economist, New York State Department of Labor, Division of Research and Statistics, 2 World Trade Center, New York, N.Y.

3. During this period Local 638 was engaged in a strike against major employers with whom it has contracts.

SIC 1711 Insured Employment in New York City and in Nassau and Suffolk Counties

	1969	1970	1971	1972	1973
January	21,724	22,574	23,738	25,053	23,489
February	21,504	22,606	23,533	24,876	23,616
March	21,939	23,012	23,957	24,793	23,938
April	22,415	23,712	24,303	24,995	24,277
May	22,697	23,889	24,758	24,936	24,694
June	23,043	24,462	25,585	25,041	24,970
July	20,952	24,322	26,066	19,895[1]	24,788
August	23,024	24,155	25,848	19,663[1]	24,453
September	23,190	24,490	25,839	20,576[1]	24,217
October	23,008	24,589	25,597	23,120	not yet available
November	23,287	24,455	25,790	24,036	
December	23,510	24,530	25,842	24,165	
Yearly Average	22,524	23,900	25,071	23,429	

Source: Computer print-out provided at the New York State Department of Labor, Division of Research and Statistics, 2 World Trade Center, New York, N.Y.

1. During this period Local 638 was engaged in a strike against major employers with whom it had contracts.

THOMAS W. TOBIN
PRESIDENT

WALTER COLLERAN
COUNSEL

A-1108

Building and Construction Trades Council

OF GREATER NEW YORK

TELEPHONE MURRAY HILL 2-7184

AFFILIATED WITH THE
AMERICAN FEDERATION OF LABOR
CONGRESS OF INDUSTRIAL ORGANIZATION

441 LEXINGTON AVENUE
NEW YORK, N. Y. 10017

April 24, 1974

To Whom It May Concern:

At the request of Steamfitters Local 638, we bring to your attention, the employment picture in the building trades here in New York City.

As you know, the New York City Building and Construction Trades Council is made up of all trades of the AFL-CIO who work in the building industry. One of our jobs as a Council is to study the work opportunities that will be available in future years so that the trades may be made aware of the needs of their particular skills, or to be made aware, if the future picture is a dismal one. In this way they will be honest, especially to young people who might be considering the building industry as a career.

Today, as well as the rest of our economy here in New York City, we are hurting. Our last poll of our affiliates indicates approximately 12,000 members unemployed with no sign that this figure will level off. One of the unfortunate hazards for our building trades in hard times, is that we are a visible industry...and as you know, looks are deceiving.

If I can be of any help in any other area other than employment in the City of New York, please contact me.

With kind regards.

Sincerely,

Edward J. Cleary

Edward J. Cleary,
Secretary-Treasurer

EJC:el

A-1109

BUILDING AND CONSTRUCTION TRADES COUNCIL
OF NASSAU AND SUFFOLK COUNTIES

AFFILIATED WITH A.F.L./C.I.O.

PRESIDENT
GEORGE BABCOCK

VICE-PRESIDENT
ARTHUR MORELLI

SECRETARY-TREASURER
DAVID RICHARDSON

April 29, 1974

Mr. Vincent Brennan, President
Steamfitters Local Union No. 638
841 Broadway
New York City, N. Y.

Dear Sir and Brother:

This is to inform you that the Nassau and Suffolk Building and Construction Trades Council which represents the various building trades in the area have approximately 22,000 unemployed mechanics at the present time and that at least 25% of all the trades are unemployed.

The coming year does not look too promising for construction workers.

Fraternally yours,

David Richardson

DAVID RICHARDSON,
Secretary-Treasurer

DR/rg

[illegible] AVENUE, WEST HEMPSTEAD, NEW YORK, 11552 • 743-5328

JOBLESSNESS HERE EXCEEDS U.S. RATE

Lag in Building, Shortages and Stock Slump Cited

4/13/58

By MICHAEL STERN

Unemployment in both New York City and the state was significantly higher than it was nationally in the first two months of this year, according to a new method of computing unemployment rates that permits such comparisons for the first time.

The State Labor Department announced unemployment rates based on the new method yesterday, and said that for the state they were 6.2 per cent in both January and February and for the city they were 6.9 per cent in January and 6.4 per cent in February.

These compare with rates of 5.6 per cent in January and 5.7 per cent in February for the country as a whole.

Characterizing the rates as "high," Louis L. Levine, the State Industrial Commissioner, said the principal causes were "a virtual standstill in the building industry, materials shortages and the depressed state of the Wall Street securi-

Continued on Page 13, Column 1

Joblessn. : in City and State Exceed : the Nationwide Rate

Continued From Pag. 1, Col. 3

ties industry."

He discounted the fuel shortage as a significent cause of the loss of New York jobs, asserting that it had had minimal effects in the state. In the week ending March 15, for example, it accounted for 12,500 unemployment claims, less than 5 per cent of the 290,000 claims made that week.

The new method of computing unemployment, like the old one, was mandated by the Federal Department of Labor. It is designed to enable Federal officials to make accurate comparisons of employment conditions among the states and major cities and to provide a uniform basis for sharing out Federal manpower - training funds under the Comprehensive Employment and Training Act of 1973.

Title II of the act provides that cities, states and counties may request Federal retraining funds when their unemployment rates hit 6.5 per cent or more for three consecutive months.

Under both the old and the new methods, the unemployment rate means the same thing—the percentage of the total work force that is out of work. It is found by dividing the number of unemployed by the sum of those employed and those who are unemployed.

Under the old system, those employed were counted in the communities where they worked. Under the new system, they are being counted where they live. One major advantage of the new system is that it eliminates double and triple counting of multiple jobholders.

For a city such as New York, which employs many commuters from the suburbs, the new system is producing higher statistical rates of unemployment because the total work force is made smaller by the elimination of commuters from the count.

The higher rates mean that the city should be able to get more funds when the act goes into effect next July.

Conversely, suburban counties, many of whose residents commute to the city to work, will have lower jobless rates because their total work forces are being made larger by the addition of commuters to their counts.

New Jersey, which is home to many people employed in New York and Pennsylvania, anticipates the same effect on its unemployment rates and is challenging the new system in a Federal court suit. Joseph Hoffman, the Labor and Industry Commissioner, has estimated that the state could lose eligibility for $25-million in Federal funds if the new system remained in effect.

In the past, the jobless rates for New York and other states could not be compared with the national rates because they were computed on different bases. The Federal rates counted employed persons where they lived.

Commissioner Levine gave the following figures for New York: employment statewide, 6,913,800 in January and 6,916,600 in February; in the city, 2,946,300 in January and 2,943,000 in February; unemployment statewide, 456,800 in January and 455,600 in February; in the city, 217,100 in January and 202,500 in February.

NYT 4/13/74

A-1112

A Construction Peak in '73

Commercial construction nationwide in 1973 set records, according to a survey published by Shiefman & Associates of Detroit, but the boom was predominantly in the smaller market areas.

Building permits for industrial space totalled 745-million square feet, the survey reported. For retail space the figure was 514-million square feet, and for office space it was 333-million.

The growth rate of the 24 major markets began to falter in the fourth quarter, but the rest of the country maintained substantially its strong pace.

According to Saul Shiefman, who heads the firm, the outlook in the major markets is for a continued significant slowdown in retail and office construction, and a leveling off of industrial. The smaller markets should maintain a healthy growth trend in all these sectors at least through the first half, he predicted.

New regional and superregional centers declined by a third in the major markets, while neighborhood strip centers and mini-malls flourished. New environmental and zoning restrictions have discouraged regional developers, the report noted, as have the growing cost and difficulty of assembling land in desirable locations.

"Center operators can no longer count on attracting traffic from their outermost residential ring," it was observed. "This is making it impractical to build in the only kind of areas where sufficient land is readily available—outlying, partly built-up areas which may not be mature for several years ahead."

In a number of markets, developers are holding off on planned regional centers in outlying areas and instead are expanding and modernizing their older centers where the contiguous areas are now heavily built up.

The energy crunch, however, was not viewed as necessarily beneficial to a revival of the center cities. The major beneficiaries are "probably the first ring of suburbs," Mr. Shiefman said, that are nearer the center of metropolitan area population than the city.

New York, Chicago, Los Angeles and Houston have at least a six-year inventory of downtown office space to absorb, he said, whereas in Detroit, Dallas, Kansas City and Minneapolis, the suburban areas are overbuilt.

A-1113

Apartments, Houses, Offices, Industrial Properties, Acreage, Merchandise Offerings, Rooms and Board, Wanted to Purchase.

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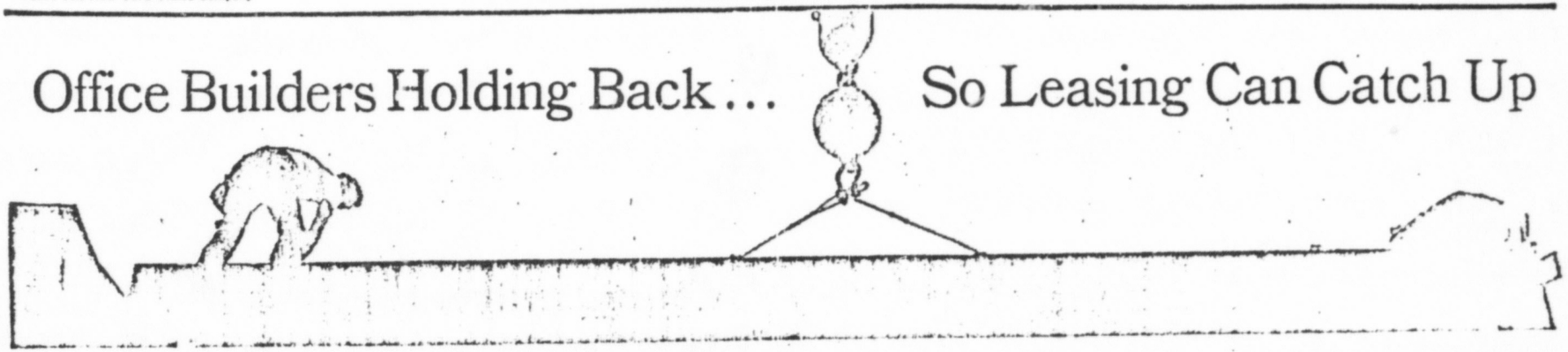
The New York Times

REAL ESTATE

Section C

Sunday, February 3, 1974

Office Builders Holding Back . . . So Leasing Can Catch Up



By CARTER B. HORSLEY

With an estimated 30 million square feet of space available, the market still belongs to the buyer, brokers contend. The energy situation is viewed as an aid to Manhattan.

For the city's office builders, 1973 was the year of the turtle. Leasing activity moved ahead of last year's pace, but progress toward new construction seemed ploddingly slow.

As Harry B. Helmsley put it, new speculative buildings "are just a gleam in the eye now." He added: "The market has shown improvement, but it is very hard to pinpoint how much. It is somewhat better because the pain is being spread among more people."

The consensus that emerged from recent interviews with owners, managing agents and real estate brokers was similar to that found a year ago: the city is overbuilt and must use its surfeit of office space before building more.

The excess amounts to almost 30 million square feet, roughly the same as it was last year and the equivalent of 30 or so major skyscrapers. A total of 5.9 million square feet were completed during the year, and almost the same amount was rented in both old and new buildings.

A chart on construction is on Page 6

During the last five years, more than 57 million square feet of office space has been constructed in the midtown and downtown business districts of Manhattan, which has a total of almost 250 million square feet, about half of it built since World War II.

Though the broad outlines of the office space situation seemed unchanged from last year, however, real estate men did report some subtle shifts in the market. Lower Manhattan, for example, was said to be experiencing more difficulty than the midtown area, and the energy crisis was seen as an advantage for central city landlords over their suburban counterparts.

The health of the office space market is an important factor in the city's over-all economic condition. A tight market like the one that existed in the late nineteen-sixties results in high rents and pressures to relocate to less expensive areas. A soft market, according to the City Planning Commission, creates an "impression of weakness in the city's economy, which may deter firms from moving to the city."

Relocations from the city by major corporations have slackened, according to many owners and brokers.

At the same time, the impact of subleasing activity has lessened. Many firms that had overcommitted themselves in the tight market a few years ago, hoping to have room for expansion later, subsequently found themselves with expensive but unused space that they were willing to unload at bargain rents. Their price-cutting played havoc with competitive new space.

Martin Turchin, senior vice president of Kenneth D. Laub & Co., Inc., said the available sublease space had "substantially diminished," to about 2.5 million square feet in the midtown area and about 2 million square feet downtown.

Nonetheless, the market still belongs to the buyer. "Owners will do what they have to to remain flexible," one broker said. The cost of carrying vacant space is prohibitive, but rents can be reduced only so far. As a result, owners have maintained break-even rents, in a period of rising operating costs, by offering tenants such inducements as additional decorative work and the assumption of leases on space being vacated.

Many builders have become more willing to break up large spaces to

Continued on Page 6, Col. 3

Completed in 1973

LOCATION	BUILDER	STORIES	RENTABLE AREA (Sq. Ft.)
Downtown			
World Trade Center	Port Authority	110	2,200,000
100 William Street	Sylvan Lawrence	21	350,000
	DOWNTOWN TOTAL:		2,550,000
Uptown			
1211 Ave. of the Americas (47th-48th)	Rockefeller Center	45	1,800,000
1 Madison Square Plaza	Rudin Management Co.	42	500,000
747 Third Avenue (46th-47th)	Kaufman Organization	38	370,000
1500 Broadway (43d-44th)	Arlen/National General	33	360,000
55 West 125th Street	Charles A. Vincent	15	220,000
489 Fifth Avenue (41st-42d)	Jesse Secales	34	138,500
	UPTOWN TOTAL:		3,398,500
	MANHATTAN TOTAL:		5,948,500

Scheduled for Completion in 1974

Downtown			
World Trade Center	Port Authority	110	1,500,00
1 Bankers Trust Plaza	Fisher Bros.	40	1,185,00
	DOWNTOWN TOTAL:		2,685,000
Uptown			
1166 Ave. of the Americas (45th-46th)	Tishman Realty and Construction	44	1,430,000
3 Park Avenue (33d-34th)	Cohen Bros.	35	600,000
625 Fifth Avenue (51st)	Arlen/Victory Carriers	50	400,000
117 East 57th Street	Edward Linckman	52	135,000
	UPTOWN TOTAL:		2,565,000
	MANHATTAN TOTAL:		5,250,000

Scheduled for Completion in 1975

Downtown			
World Trade Center	Port Authority	110	2,000,000
	DOWNTOWN TOTAL:		2,000,000
	MANHATTAN TOTAL:		2,000,000

Buildings Projected for 1976 and Later

Downtown			
Battery Park City (3 buildings)	Harry B. Helmsley	50,60,70	5,000,000
Lehman Plaza (Broad, Stone & Pearl)	Arlen/Lehman	45	1,200,000
Nassau & John, Maiden Lane	Federal Reserve Bank of New York	42	600,000
45 Broadway	Sylvan Lawrence	Plans incomplete	
Uptown			
300 West 42d Street	Nutman/Port Auth.	45	1,200,000
560 Lexington Ave. (53d-54th)	First National City Bank	46	1,100,000
685 Third Avenue (43d-44th)	American Home Products	28	350,000
767 Third Avenue (48th)	Sigmund Sommer	30	300,000
770 Third Avenue (47th-48th)	Harry B. Helmsley	Plans incomplete	
900 Third Avenue (54th-5[illegible])	Samuel Minskoff & Sons	Plans Incomplete	
525 Lexington Ave. (48th-49th)	Tishman Realty and Construction	Plans incomplete	
990 Ave. of the Americas (36th-37th)	Arlen Realty and Development	Plans Incomplete	
1141 Ave. of the Americas (44th-45th)	Seymour Durst	Plans incomplete	
1375 Ave. of the Americas	54-55 Realty Corp.	Plans Incomplete	
1520 Broadway (44th-45th)	Seymour Durst	Plans incomplete	

The New York Times

Office Builders Hold Back

Continued from Page 1

attract smaller-sized tenants, who traditionally had to look to older and smaller buildings. Some owners are also beginning to offer shorter leases, hoping to take advantage of improved market conditions at renewal time.

The bulk of the available space is in the midtown area. Richard W. Seeler, executive vice president of Cross & Brown Co., said more than 20 million square feet were still available there and "the end of the line is two or three years away." He added:

"The Lower Manhattan market, with more than 8 million square feet of space, is still trying to get out of the station. With trading volume off for most of 1973 and overheads high, the stock brokerage industry has hardly been in an expansive mood. Downtown has also been losing some tenants to the midtown area, among them a number of law firms long associated with Lower Manhattan who now find the bulk of their clientele farther north."

Bertram F. French of Cushman & Wakefield, Inc., agreed. "Downtown is suffering," he said. "We're really hurting. But there is so much happening that you can't look at it on a short-term basis." What is happening, according to Mr. French, is the construction of such residential projects as Washington Market, Battery Park City, Southbridge Towers and Manhattan Landing, which promise to transform the area.

John R. White, the president of James D. Landauer Associates, said that leasing activity had picked up by about 30 per cent over 1972, when some 3.5 million square feet of new space were absorbed. Mr. White predicted "a period of indecision and outright confusion until the energy situation clarifies," then a boost for the city. He cautioned, however, that he did not expect to see any "dramatic overnight shifts" in the office market.

With new construction coming to a standstill, many brokers noticed a scarcity of large contiguous spaces. The most notable exception continued to be the 40-story tower at One New York Plaza, which contains 1.1 million square feet and has been empty since it was completed in 1970 by Sol Atlas and John McGrath. There were rumors that it might be acquired by the City University of New York for Baruch College, but the building's fate remains uncertain.

Rentals edged higher during the year, especially in the last quarter, and in such prime locations as Park Avenue were about $1 a square foot a year above the previous year's levels, brokers said. There were a few deals in the $12 range, they added, but most prime space was closer to $10 a square foot, and some sublet space downtown was available in the $4 to $5 range.

The estimated vacancy rate—more than 10 per cent—was 20 times its level in 1967.

The City Planning Commission said recently that a "moderate" vacancy rate of 5 per cent is ideal. It calculated that if office employment grew at only 1 per cent a year, the city could absorb 3 million square feet of new space annually, which would mean that the ideal vacancy rate would not be reached until 1981.

Sylvan Lawrence, the builder, said that some companies were "looking at other places and cities to use their talents, although they are eager to resolve the problems here."

Other builders, he said, may turn to residential construction because "if the office space is to be rented successfully we need the people to work in it, and the city has a crying need for middle-class housing."

Office Completions

Year	Number of buildings	Rentable Area Sq. ft.
1947	2	[illegible]
1948	3	[illegible]
1949	3	[illegible]
1950	10	4 [illegible]
1951	8	1,[illegible]
1952	3	[illegible]
1953	5	[illegible]
1954	10	[illegible]
1955	9	[illegible]
1956	10	[illegible]
1957	16	5,[illegible]
1958	16	4,[illegible]
1959	11	[illegible]
1960	11	[illegible]
1961	12	[illegible]
1962	9	[illegible]
1963	12	[illegible]
1964	10	[illegible]
1965	10	[illegible]
1966	9	[illegible]
1967	10	[illegible]
1968	4	[illegible]
1969	15	[illegible]
1970	17	[illegible]
1971	18	[illegible]
1972	11	5,[illegible]
1973	7	5,948,500
Total	270	135,112,500

The New York Times

New Office space - Area in thousands of square feet of unleased floor space

	Recently completed but as yet unleased	space under construction or being planned but as yet unleased	space leased
3/70	None reported	21,432	585
6/70	"	22,655	430
9/70	"	21,963	831
12/70	"	19,852	614
3/71	"	21,335	105
6/71	"	20,929	222
9/71	"	21,345	250
12/71	"	20,983	267
3/72	7,394	16,313	203
6/72	6,939	16,413	184
9/72	6,229	16,401	381
12/72	6,429	12,994	450
3/73	7,871	15,995	356
6/73	7,467	15,905	195
9/73	8,357	17,078	29
12/73	7,922	17,141	115
3/74	10,722	13,368	400

Source: Studley Reports published monthly by Julien J. Studley, Inc. a real estate broker located at 342 Madison Avenue, New York, N.Y.

Number of New Housing Units Based on Building Permits issued in New York City and Nassau and Suffolk Counties

Period	Total One Family	Total 5 Families or more	Total other	Total of one, five or other family
1968	13,861	18,695	5,705	38,061
1969	11,640	13,901	4,564	30,105
1970	9,784	19,641	3,529	29,656
1971	12,760	28,539	4,507	40,277
1972	14,093	34,085	4,597	52,775
1973	11,981	20,002	3,695	35,678
1st Qtr. '68	2,561	6,432	1,268	10,261
1st Qtr. '69	2,586	3,721	1,057	7,364
1st Qtr. '70	4,127	1,091	245	6,065
1st Qtr. '71	1,179	2,865	675	4,719
1st Qtr. '72	3,025	4,043	783	8,861
1st Qtr. '73	2,952	1,040	3,205	7,197
1st Qtr. '74	2,133	427	1,888	4,456

Source: Construction Activity In New York State, March and December, 1969, March, 1970, March and December, 1971, March and December, 1973, January, February and March, 1974, published by the State of New York, Division of Housing and Community Renewal, 2 World Trade Center, New York, N.Y.

A-1117

NYT 3/24/74

HOUSING ACTIVITY OFF 40% IN CITY

Report for 1973 Puts Drop In Building for the State as a Whole at 29%

By JOSEPH P. FRIED

The pace of housing construction, which had zoomed in 1971 and 1972 in response to a variety of governmental and private actions, plummeted last year by 40 per cent in New York City and by 29 per cent in the state as a whole, state housing officials reported yesterday.

They based their finding on the number of residential building permits issued, a major indicator of housing construction.

The sharp decline in permits in 1973 was attributed by the State Housing Commissioner, Lee Goodwin, to "the moratorium on Federal housing subsidies, rising interest rates and spiraling construction costs." These, she said, had "discouraged the channeling of funds into the housing field."

The 1973 plunge followed two years in which new-housing permits, statewide and in the city, had risen significantly from the relatively low levels of the late nineteen-sixties.

While housing construction was down generally across the country last year, the New York plunge was sharper than the national drop. Nationally, actual construction starts fell less than 15 per cent last year, according to Census Bureau figures.

Why the drop should be so much sharper in New York City has long been a subject of contention. Real-estate men say

Continued on Page 52, Column 2

Island Housing Permits Drop

By JOSEPH P. FRIED

Suffolk County, which last year experienced far less of a drop in the rate of housing construction than did the state and the suburbs around New York City, is now experiencing a decline similar to the state's, according to state figures made public last week.

Nassau County, where the fall-off in residential construction last year was more in line with the statewide drop and with the suburban decline generally, is also experiencing a far sharper decline so far this year.

These findings are among the trends pictured by the State Division of Housing and Community Renewal in its latest report on residential-construction permits issued throughout the state. Such permits are regarded as a major indicator of housing-construction activity.

The latest report sums up preliminary permit figures for the first three months of this year. They show that while permits issued in the state as a whole during these three months dropped 35 per cent from the levels of the comparable period in 1973, the permit decline in Suffolk was 38 per cent, roughly in line with the state fall-off.

Last year, by contrast, while the annual statewide permit figure dropped 29 per cent from the 1972 level, the drop in Suffolk was only 14 per cent, or half the statewide rate of decline.

Suffolk Drop Sharp

Similarly, the 14 per cent Suffolk drop in 1973 was well below the decline generally—25 per cent—last year in the four suburban counties in the state around New York City. During the first three months of this year, however, the Suffolk decline of 38 per cent was closer to the general suburban decline of 33 per cent.

The state housing agency includes Nassau, Westchester and Rockland Counties, along with Suffolk, as in its "suburban New York City" figures.

In Nassau County, the housing-construction outlook appears especially grim so far this year. Between January and March, the number of permits issued was 51 per cent below the number that had been issued during the first three months of 1973. In 1973 as a whole, permits in Nassau had been 22 per cent below the 1972 figure there.

While construction indicators for the first quarter of any year do not necessarily mean that the entire year will be depressed, state housing officials were projecting last week that 1974 would be a bleaker year for the home-building industry in the state as a whole, and in many parts of it, than was 1973.

An unfavorable mortgage market — scarce mortgage money and high interest rates — as well as the Nixon Administration's sharp cutbacks in subsidized housing and the ever-higher costs of building are among the factors cited for the housing-construction decline in the state generally, a decline that mirrors the nationwide situation.

Also contributing was the energy crisis, which has made certain construction materials — including concrete, steel reinforcing rods and insulation—more expensive to produce and scarcer, said a spokesman for State Housing Commissioner Lee Goodwin.

Recently announced plans by the Nixon Administration to bolster the middle-income mortgage market could improve things in suburban areas generally, but this "remains to be seen," the spokesman said.

Construction Permits For New Housing

	Jan.-Mar. '74 *	Jan.-Mar. '73	% Change	1973	1972	% Change
New York State Total	9,704	14,951	-35%	78,677	111,282	-29%
Nassau	288	588	-51%	1,834	2,343	-22%
Suffolk	1,723	2,775	-38%	12,375	14,371	-14%

Source: New York State Division of Housing and Community Renewal

* (Preliminary Data)

Condominiums Play Role

But aside from over-all trends, a number of local factors also influence the housing picture anywhere, and these help explain why Suffolk weathered the general housing decline better last year than it is doing this year, according to one planning official.

The official, Lee E. Koppelman, executive director of the Nassau-Suffolk Regional Planning Board, said that the relative moderation of last year's decline in Suffolk's building permits reflected the strong market of recent years for condominium housing construction there. Builders of these developments who obtained permits in 1973 had gotten their financing commitments before the mortgage market became as severe as it currently is, he said.

Suffolk's economy also remained relatively strong, compared with the "sponginess" in other areas of the state, Mr. Koppelman said, and "if you're providing a job base, you automatically create a housing market."

This year's sharper decline in Suffolk building permits, he said, reflected the fact that the mortgage market was "catching up" with the condominium builders and also reflected the steps taken by a number of communities in the county to curb growth.

The extremely sharp drop in Nassau County permits during the first three months of this year reflects, in part, the fact that "Nassau is approaching saturation and taking on the characteristics of a settled area," Mr. Koppelman said. Cost factors were also involved, as was the county government's "general attitude that we have enough housing," he said.

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A-1119

STATE OF NEW YORK, COUNTY OF ss.:

The undersigned, an attorney admitted to practice in the courts of New York State,

Check Applicable Box

☐ Certification By Attorney — certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

☐ Attorney's Affirmation — shows: deponent is the attorney(s) of record for in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF ss.:

Check Applicable Box

☐ Individual Verification — being duly sworn, deposes and says: deponent is the in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

☐ Corporate Verification — the of a corporation, in the within action; deponent has read the foregoing and knows the contents thereof; and the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because is a corporation and deponent is an officer thereof.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on 19

.....
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF ss.:

being duly sworn, deposes and says: deponent is not a party to the action, is over 18 years of age and resides at

Check Applicable Box

☐ Affidavit of Service By Mail — On 19 deponent served the within upon attorney(s) for in this action, at the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in — a post office — official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

☐ Affidavit of Personal Service — On 19 at deponent served the within upon the herein, by delivering a true copy thereof to h personally. Deponent knew the person so served to be the person mentioned and described in said papers as the therein.

Sworn to before me on 19

.....
The name signed must be printed beneath

NOTICE OF ENTRY

e take notice that the within is a *(certified)*
of a
ed in the office of the clerk of the within
art on 19

A-1120

Dated,

Yours, etc.,

DELSON & GORDON

Attorneys for

Office and Post Office Address

230 Park Avenue

Borough of Manhattan New York, N. Y. 10017

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19

at M.

Dated,

Yours, etc.,

DELSON & GORDON

Attorneys for

Office and Post Office Address

230 Park Avenue

Borough of Manhattan New York, N. Y. 10017

To

Attorney(s) for

10

Index No. 71 Civ. 2877 & 71 Civ. 847 Year 19

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA (E.E.O.C.), Plaintiff,
-against-
ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 of U.A., et al., Defendants.

GEORGE RIOS, et al.
Plaintiffs,
-against-
ENTERPRISE ASSOCIATION STEAM-FITTERS LOCAL 638 of U.A., et al.
Defendants.

FACT BRIEF ON BEHALF OF ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL 638 OF U.A.

DELSON & GORDON
Enteprise Association
Attorneys for Steamfitters Local 638 of U.A.
Office and Post Office Address, Telephone

230 Park Avenue

Borough of Manhattan New York, N. Y. 10017

(212) MU 6-8030

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

1800-© 1973, JULIUS BLUMBERG, INC., 80 EXCHANGE PLACE, N.Y. 10004

VINCENT D. McDONNELL, Esq.
Administrator, A.A.P., U.S. v. Local 638 et al.

A-1121

June 21, 1974

Honorable Dudley B. Bonsal
United States District Court
Foley Square
New York, New York

Re:71Civ. 847,2877

Dear Judge Bonsal:

Having been appointed Administrator by paragraph 4 of the Order and Judgement dated June 21, 1973 and continued as such by paragraph 1 of the "Affirmative Action Plan for Local 638, Mechanical Contractors Association, and the Joint Apprentice Committee" of your Order Adopting Affirmative Action Plan (hereinafter AAP), dated March 27, 1974; I make the following report:

The "minimum goal of 30% non-white membership by July 1, 1977" for full journeyman membership in Local 638's Construction Branch (A Branch) as set forth in paragraph 8 of the Order and Judgement dated June 21, 1973, as further defined by paragraph 3 of the AAP of March 27, 1974, have been met by the Union. The 15% minority membership requirement of July 15, 1974 based upon the total membership (paragraph 4 of the "AAP") is this years percentage goal. The total journeyman membership is considered as follows:

(1)	Journeyman	3334
(2)	Disability Status	23
(3)	Apprenticeship Training Program	636
(4)	Trainees	66
(5)	Permit Men (800 hours plus)	696
	Total	4755 persons

The 4755 persons are deemed to be "the total membership of the A Branch against which the 30% (and this years 15%) goal is to be measured".

15% of 4755 would require 703 Black and Spanish Speaking persons to be in the "A Branch" by July 1, 1974.

The figures of minorities in the A Branch presented by the union as of April 23, 1974 (John Sheeran, Secy.) are

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as follows:

464	Black A Journeymen
142	Spanish Surnamed Journeymen
104	Black Apprentices
43	Spanish Surnamed Apprentices
58	Black Trainees
18	Spanish Surnamed Trainees
829	Total

In addition to the above, 19 Black and 9 Spanish Surnamed who were invited to membership, a total of 28, did not elect to accept. Had they done so the total would now be 857, in excess of the 703 required under the order. As Administrator I believe this represents a good job of implementing the order in its first year.

In addition to the above, all Blacks and Spanish Surnamed who were on the Apprentice list, established prior to the date of the Order, were offered an Apprentice spot. The entire list was exhausted as to Blacks and Spanish surnamed persons. (There still are over 900 Whites on the list.) R.T.P. and Fight Back have been given applications for additional names. A new examination is in process for more minority persons in order to meet future requirements.

In short, the goal of the "thrust of the Order" has been met. Blacks and Spanish surnamed persons have been and are being admitted in large numbers.

All White applicants who filed between June 21, 1973 and December 31, 1973, some 118, were scheduled for the practical examination. 99 showed up and took it; 65 passed. 45 of them are to be inducted into the union on July 1, 1974. The experience requirement is being checked on the other 20. If acceptable, they will be admitted.

In addition, 212 letters were received by the union during the so-called paragraph 12 period--June 21 through December 31, 1973--bringing the total of "whites" who applied in writing during the period to 330. All have been invited to secure and file an application. 212 requests went out; 147 have been returned to date. 93 are scheduled for the practical examination in June and July of this year. The first group starts today.

In spite of heavy unemployment in Construction, in New York City; the Building Trades Council says 12,000 of its members are unemployed, the New York Chapter of the American Institute of Architects finds its members performing 55% less work than 1969. In late May, the President of the New York City Council formed a group of architects, builders, bankers

and labor unions to look into the problem which he said had aspects of 1929; the State Housing Commissioner publically stated 1974 would be worse than 1973 and 1973 was a year in which housing construction dropped sharply from the previous years; the union still went forward on its requirement to test and admit under the decree.

All qualified Blacks and Spanish Surnamed who applied prior to January 1, 1974 were given the chance to take the examination or be directly admitted into the A Branch, if qualified. As above stated the 15% requirement was more than met. The minority and union representative on the Board of Examiners agreed in every case on those who took the practical examination.

Unemployment is now heavy in the industry, and in this union according to it's brief. I do not believe it necessary to repeat the statistics set forth in the union's brief transmitted to the Court and all parties by cover letter dated June 10, 1974. The New York State Industrial Commissioner in a public release dated May 23, 1974, showed total unemployment in New York City for April 1974 as 220,800 and for April 1973--188,800. A great deal of the increase is in the Construction Industry.

The April 25, 1974 report of the Joint Apprenticeship Committee showed 185 unemployed out of a total of 566 apprentices. Of these 185, 60 are Black and 23 Spanish surnamed. Thus, it can be seen there is substantial unemployment in this area as well. It was just a few months ago when the effort was to increase the total number of apprentices by a greater degree. Nevertheless, the union and the JAC, at the Administrator's insistence went forward with the decree while pointing out the unemployment.

The union, with great unemployment of both Whites and Minority A men, now seeks relief--while still complying with the percentage goals by continuing to add to its membership while there are no jobs.

There is no doubt in the Administrator's mind that a good job was done on admissions. Now as in all things--nothing is easy. Toward the end of 1973 the failure of new construction caught up with the City and Long Island and compounded a most difficult undertaking i.e. the implementation of the Order and the AAP.

What good a Journeyman's card if no work. The number of recent letters, the Administrator and the Court received from unemployed steamfitters points up a well stated problem--unemployment. Men with many years of work now have none. The union's brief sets the unemployment at 859 members. If considering permit men the number is 1530. In any event nearly one third the work force is not employed. The union's brief is quite in detail. Even should we consider many of the unemployed do not want to work a full year the figure is still impressive.

I have asked the United States Attorney's office, on an informal basis, to look into the possibility of replacing "permit men" with A men. This could to some extent relieve the present situation, but no doubt would cause great hardship to others i.e. "Permit Men". As a minimum however the industry should consider not using permit men in the future, except perhaps in a few rare cases if such action is permissible under the law. No doubt however this area should be further explored. Presently it is a legal area that should be resolved.

Under no condition should an ongoing trend be permitted where there is a higher percentage of minorities unemployed than others.

Paragraph 22 of the Order (June 21, 1973) asks the Administrator to recommend changes, if any, in the work referral system. This system has been in use in the industry almost since "time out of mind". With all the complications of the implementation of the Order I do not think changes should be made at this time. All the unemployment and many of the difficulties are being blamed on the Order. Of course this is not so, but, it is so that the heavy unemployment is causing great difficulties. Those persons who have written that the order has put them out of work do not understand clearly, the desired result of the courts' percentage goals.

The union in good faith processed 1608 applications by the end of 1973. All were from the minority group. 850 minority persons were given the complicated and time consuming Practical Examination. The R.T.P. and Fight Back minority agencies put in tremendous time and were most helpful. They and others have objected very strongly to the number of unemployed.

I suggest to pin point the unemployment situatiion the Funds office direct all employers to identify by minority group or other the employees in each company and/or job. Such should be a continuing requirement from members of the MCA, HVAC, and independent i.e. <u>all</u> employers. To this end I suggest a meeting of all parties, the Administrator and the Court.

Apart from the percentage goals we now come to those who apply under the AAP. Here both the union and some monority representatives have questioned continued admissions in a time of unemployment. I believe a conference on this is necessary.

Yours very truly,

Vincent D. McDonnell

VDM:dms

But that is perfectly all right. I am not going to ask for reply. I will have you in and ask you.

MR. SHAW: I might say, your Honor, that there may be a problem in connection with the requirement for city and, I think it is, state contracts. There have been some goals set up in terms of percentages that gradually grade up to the year. I think somebody submitted that to you, in any event.

I am not quite sure how your decision on the remand is going to relate to those city and state requirements. As a matter of fact, it would seem to me the Second Circuit's decision may become a leading decision, and the city and state may have to revise their numbers. I think that is going to be a problem for all of us. It certainly is for the employers.

THE COURT: I wish you would focus on it in your memorandum.

MR. SHAW: It may be the one thing that I might submit.

THE COURT: Would you do that?

MR. SHAW: Yes.

THE COURT: I would be grateful. I suppose on the issue of state contracts, the state can pretty well decide what it wants to do, can it not, pretty much?

But as far as we are concerned, we are treating with an overall problem of a situation in a particular industry and in a particular union. But I would like you to focus on that. It might have some bearing on it.

The next thing, gentlemen, is the problem of the industry and particularly what seems to be the growing unemployment. I have read with great interest and, I must confess, some sadness the union brief of June 10, a good brief. I have also read Mr. McDonnell's view on it. I think all of us have had copies of that. So I would like to reverse the order here and I would like either Mr. Brook or Mr. Katz to start out on this subject and review anything that is contained in the brief or what they want to add as to the present situation. It would be very helpful.

MR. BROOK: Yes, your Honor. The situation which this industry faces concerning employment is just drastic. There are literally hundreds of people who have known nothing but full employment and decent wages since World War II who are now hunting around trying to find jobs. There are newly admitted minority members who are in the same position.

The situation in the steamfitting industry

amongst union members, amongst black and white members, is nothing short of a depression condition.

If anything, the situation is getting worse instead of better. As interest rates go up, it becomes more and more difficult to build. The building permits and the employment statistics show a worsening trend since the time that this brief has been submitted.

If I may, your Honor, I could distribute some update on three areas here.

Before I do so, I will indicate the particular table to which they should go. But it shows a downward trend in terms of construction and an upward climb in terms of unemployment. The situation is just unbearable from the point of view of the union. The relief which was sought in the fact brief which we presented, which I may add was uncontroverted, was that there be a complete cutoff of admissions at this time.

Several conferences ago, when the apprenticeship class was being discussed, there were representations by the employers that the industry could take more and more and it is just tragic to have young men indentured as apprentices with no place to go.

THE COURT: When you say a complete cutoff, would you specify in a little more detail what you mean?

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You mentioned the apprenticeship program.

MR. BROOK: We would suggest that until the extremely high unemployment is abated and that a decrease is demonstrated by some other parties, that there be no further direct admission to the Union of either black or white. We would make this suggestion for two reasons, your Honor: First, there will be goals of some magnitude which have to be reached. Until that goal is determined, the whole admission policy and the scheme of the inflow of members cannot rationally be determined because the Union might be quite close already to the goal which it has to reach.

Secondly, your Honor, it makes no sense from the point of view of those people in the Union and those people who might wish to come into the Union, to have a continued admission procedure in a time of such massive unemployment. We believe that the fact brief demonstrates that there are literally hundreds and hundreds of Union members of every color, of every race, out of work. To add to the list of unemployed --

THE COURT: This is just looking for information: Does this affect equally the A Branch and the B Branch, or is there is a difference?

MR. BROOK: There is unemployment amongst

the A members, both black and white, and there is unemployment so far as construction opportunitites go in terms of B Branch members as well. B Branch members are free to work in the fabricating jobs. Historically the B work force was an overflow work force when there were more jobs than members. The Union's primary concern would be for the Union members, both the new and the old, the black and the white. But the fact of unemployment has hit all groups, your Honor -- apprentices, journeymen, black, white, young, old -- and with tremendous severity.

THE COURT: You say it is more severe now than it was at the time you wrote this report of June 10th?

MR. BROOK: Yes, your Honor. These updates indicate the cost and number of building permits, which was one of the main documents which we relied upon, and that shows that April was a disastrous month. The number of housing permits in the Union's territory declined from 5,500 in April of 1973 to 1,800 in 1974. The cost of construction, total residential and non-residential, declined from 230,000 in April of 1973 to 78,000. This is nothing short, then, of a crisis, your Honor.

THE COURT: Where did those figures come from?

MR. BROOK: These figures are based on figures from the Division of Housing and Community Renewal, which is a state agency which compiles such data.

MR. KATZ: Excuse me. I might add, your Honor, that the 1974 dollars are inflated dollars also. So that on a comparable basis the situation is really somewhat worse than a percent just on a direct relationship.

MR. BROOK: So that we would put forth the position at this time that there be no further admissions to the union of anyone of any race.

MR. KATZ: Your Honor, I would like to supplement that just a little bit. One of the reasons we think that this makes sense at this time is that the ratio now within the union is 17 percent, which is already above the quota, even taking the 30 percent figure on the time basis for the affirmative action period.

Secondly, we think that the suggestion of the Administrator that --

THE COURT: What you are saying, if I under-

stand it, is that if this were done, the ratio at the time this was done would be more than that which was required in the affirmative action program?

MR. KATZ: That is correct, your Honor. At this point.

THE COURT: At this point, yes.

MR. KATZ: We think that the Administrator's suggestion in his letter to the Court with respect to continued review on his part of the unemployment situation could be coupled, the Union would be willing to have it coupled, with the suggestion to the Court for the re-opening of admissions to the Union to come from the Administrator, and that re-opening might be on a full basis or on a partial basis, depending upon how the employment situation was at the time. This would therefore provide for a continuity of review and for a timely re-opening of the program.

It would not be a lag which might otherwise occur if we did not have this kind of constant attention to the problem.

As I say, the Union thinks that it probably makes most sense to adopt the suggestion for a change if the Court were to agree to a suspension of admissions at this time, to come to the Court from the Administrator.

Of course, any party could apply to the Administrator for that purpose.

THE COURT: All right.

MR. KATZ: Might I just say one other thing, your Honor?

THE COURT: Yes.

MR. KATZ: Because of this crisis situation, if it were possible for the Court to make as part of its suggestion, or part of its order, I guess, an ability for those who are members of the A Branch to have some priority in terms of available employment as it opens up on a non-discriminatory basis, to obtain that employment, I think that would be helpful too.

MR. YEAGER: Your Honor, they are asking the Court to adopt a violation of the Taft-Hartley Act.

THE COURT: I am going to get to you in a minute. I want to get your views on it.

I would like to turn next to Mr. Shaw on this general problem.

MR. SHAW: Your Honor, I am advised that there is at least some unemployment at this time amongst members. The extent of it we are not sure about. There are certain statistics that are set forth

here which show that there have been more fellows drawing on unemployment than there were last year at this time. So the extent of it we are not sure of, but that there is some unemployment, there is no question. That certainly is a factor.

THE COURT: I am thinking of it in relation to a year ago.

MR. SHAW: That is correct, yes.

THE COURT: There would be more unemployment now than there was a year ago.

MR. SHAW: You see, we have this problem in any numbers in this industry, your Honor, and that is that there are, as you know from some of the exhibits, men in the A Branch who by choice do not work a full year, or work substantially less than a full year. So that actually in the end I suppose the only way you could really get at it is to identify the individual. But I repeat that there is no question there is some unemployment.

THE COURT: How about the number of jobs that MCA is getting these days?

MR. SHAW: I am told that that is not as good as it was last year. The future is unclear, I think, in the industry. I don't think anybody knows

exactly what is happening.

I must say the building permits are probably irrelevant, because I think that would not relate to the kind of buildings we are talking about here, which is all big office buildings, big apartment houses, as compared to the thousands of individual homes or two-family homes.

Nevertheless, the picture I get from my people is that some of the contracts of work have been affected, others have not been affected. Nobody is quite sure where it is going. Everybody is kind of worried.

I must say that Mr. Katz' suggestion about giving priority to A fitters on re-hiring obviously is a problem in terms of Taft-Hartley, but it is also a problem in terms of the employers' not being a party to the action, and I do not know how you could enforce that.

It seems to me historically, though, that that has happened. As I say, an A cardholder, as you have found, has a good deal of leverage just by reason of his card. So that will almost certainly happen on the job site no matter what we said here.

That is all I have to say on it, your Honor.

time of the appeal and what goes into the papers on the appeal would be possibly changed by what happens.

THE COURT: That is right. I am not going to be caught on any deadline that Mr. Fensterstock prescribes on that subject, I will tell you that.

Gentlemen, there were some other things that I just want to mention to you in passing. I have these motions, and I think everybody has filed all the papers. There are the government's motions for costs and back pay. Rios made his motion for class-wide back pay, which the government joins, I believe. And there is the Rios plaintiff motion for costs and attorneys' fees. I am going to try to focus on all these motions in August.

The one for class-wide back pay which Rios plaintiffs advanced and the government has gone along with troubles me quite a bit. There have been a lot of cases where people have gotten back pay from private companies; there have been cases where people have gotten back pay from Unions who have been found to be in contempt of court.

The situation we have here is that we have a Union I don't find has been in contempt of court. On the contrary, to date, I think they have been most

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cooperative. And I have trouble with that back pay matter.

I suppose if the Union had to pay the back pay it would mean the money would come from other Union members rather than from the officers of the Union.

What do you say about that, Mr. Yeager? What do you figure you would get? Would the Union pay all of this back pay if I appointed a special master to go through all this?

MR. YEAGER: Your Honor, the way we had envisioned it, it would be the defendants together. I presume that the JAC would not be responsible for back pay due to individuals who were denied direct admission.

THE COURT: Yes.

MR. YEAGER: But that might be carved out. But otherwise it struck us that all of the defendants, at this point at least, should be held liable for back pay.

THE COURT: When you say the other defendants, you mean MCA?

MR. YEAGER: And JAC. I suppose that there would have to be some allocation formula.

THE COURT: How would they pay for all this?

Where would the money come from?

MR. YEAGER: Your Honor, I don't know. I am not privy to their financial dealings. But, as I understand the law, there is a presumption that back pay is due where individuals have been the victim of discrimination.

The question of the Union's poverty might be introduced in some kind of amelioration of the amounts that are eventually awarded. But the simple question of whether or not the members of the class are entitled to it seems to me is really a separate question.

THE COURT: How many members are there to this class?

MR. YEAGER: So far we have identified about 800, I think. Those would be the individuals. Well, probably more than that because some individuals nad come forward that might not have the full range of skills but yet might well have beenable to benefit from the apprenticeship program.

THE COURT: I have reservations about it. I just wanted to mention them to you. I am aware of the law and there are a lot of decisions on that subject. I am going to consider it but I want to tell you that I have some questions, really. I have thought of this

basically as an injunctive proceeding perhaps where a lot of people have been hurt undoubtedly,but it is very hard to pinpoint that, and we are trying to correct that in the future, and I have been trying to do that with the cooperation of everybody.

I must say I am going to have a little trouble leading myself to think that I can continue that cooperation if I suddenly get a special master or a magistrate to tote up a huge bill and say, "Boys, here, you have got to pay it." I am not sure of that. It worries me. I want to tell you that so you understand it.

MR. YEAGER: Your Honor, on the point of pinpointing what is involved here, there was testimony at the trial from a number of non-whites that they were being paid considerably less than the going rate for journeymen at that time.

THE COURT: Yes.

MR. YEAGER: It seemed to me that pretty clearly individuals like that, who then took the examination and became A Branch members without any difficulty, are entitled to back pay under even the most restrictive reading of the law.

THE COURT: Yes, there are those and the

original plaintiffs in the Rios action -- some of those I think were original plaintiffs in the Rios action.

MR. YEAGER: We have individuals, that is right, who were denied employment, and so forth, at the outset.

MR. GLASSMAN: Your Honor, perhaps we could give a little more thought as to the specific type of people who might qualify, and submit some further papers to you.

THE COURT: That is what I was leading up to. It would help me a lot if you do that. Because I just wanted to indicate to you my general malaise in this area, and that basically I think we are going to get along fine. The way we have been getting along I would like to continue, and in doing that I have to respect the Union's problems as well as the plaintiffs' problems and the rest of it. If you could suggest that, it would be helpful to me.

MR. YEAGER: Is there a time by which you wish to receive it?

THE COURT: August 1.

MR. YEAGER: That date keeps cropping up.

THE COURT: Yes, that is right. That would be helpful to me, if you could do that.

Then on the other problems, I think you have all been very helpful with respect to the government seeking costs and the plaintiff seeking costs and attorneys' fees.

That raises the old problem of whether OLO attorneys as distinguished from private attorneys are entitled to attorney's fees. I will have to wrestle with that and do the best I can with it.

MR. BROOK: Your Honor, if I may, there is one outstanding item which has not been covered at all and that is the outstanding m ion for contempt as against the Union.

THE COURT: That was the intervenor's motion?

MR. BROOK: Yes, your Honor.

THE COURT: I denied that.

MR. BROOK: Thank you, your Honor. We were unaware of that.

THE COURT: I denied that at the same time I denied the motion to intervene. I wrote a little memo on that. I denied the motion to hold the Union in contempt by an endorsement. That is on file.

MR. BROOK: Thank you, your Honor.

THE COURT: I don't think you have heard the

Appearances (Continued):

Mr. Yeager

Mrs. Walter

Mr. Glassman

Mr. Brook

Mr. Shaw, Jr.

* * * * *

THE COURT: I thought, gentlemen, I would like to, now that the summer is over and I have received all your briefs on various subjects, and which I have read with great interest -- they have been a great help to me on all sides, the briefs that have been filed here -- but I thought before we started discussing the topics which I have in mind to discuss, I wondered if Mr. McDonnell would like to make any statement about the general condition of the program.

MR. McDONNELL: Well, subject to the ruling of the Court with respect to the remanded matter on percentages and goals, as I had indicated in my letter ending last year, the Union met the goals set by the Court, and I am convinced that they will meet the goals this year.

We have, in the pipeline, sufficient candidates either through the apprentice program or through the journeyman program to reach the present goals at that stage. We may be at any other goals, if there are some other goals

set. Unemployment in the industry is very high. Unemployment throughout the state is very high in the construction industry. There have been all sorts of representations with respect to the unemployment situation, coming from the State Industrial Commission, coming from the President of the City Council, coming from the Building Trades Employers Association, coming from the Building Construction Trades Council, on the Union end. There is no question but that there is very heavy unemployment in the construction industry.

We have asked the Union to submit to us, the M.C.A., H.A.V.A. employers submit to us the names of all of the minority members who have gone into the Union, and I have that.

I understand that that can be now fed into the computer from which we can get some additional statistics.

It is unfortunate that the program is moving along so well that we hit this period of unemployment.

The real question, I think, here, is not so much the unemployment but the fair proportion of unemployment as it affects the minority employees in the Union now, the A men and the apprentices.

I believe at the moment the percentage would be higher on the minority groups. I don't have the figure, but

working or retired or on pension are not included in the list, then we are satisfied.

THE COURT: I understand from Mr. Brook that the retired whites cannot work -- they can work at something else; they can probably be painters or something else, but they can't work in the steamfitting industry, is that right?

MR. BROOK: That's right.

THE COURT: On the comparison of numbers, the retired people who don't work don't appear, either way, that is all you want.

MR. GLASSMAN: Yes.

THE COURT: Sure. All right. Has anybody got any other general observations before we get to the matters that I want to talk to you a little about?

Does that bring us up to date?

I do think, and I will say that I am very happy the way this thing has been going, despite the very serious problem of unemployment, and I wish I knew that there would be a prompt solution to that,but I don't. And I think it has only gone as well because of the cooperation, and I mention that, of the Union and everybody here, to help this thing go, and I am very grateful to all of you for that.

Now, the next thing I would like to talk to you about is the goal, the percentages. You remember, we have

I assure you, it won't be a long hearing.

Now, I have for decision these motions for attorneys' fees and for back pay, and I can promise all of you that they are giving me a great deal of trouble, I assure you. I can assure you of that.

One thing I haven't any problem about, I think that the plaintiffs are certainly entitled to recover their costs, including transcripts and that kind of thing. I haven't any problem on that.

The issue of attorneys' fees is tied up with an awful lot of problems in my mind, and the issue of back pay is, too.

Now, the plaintiffs are one group, and I believe that there were fellows referred to at the trial who had applied for membership and been turned down who were not plaintiffs.

Does anybody remember whether I am right or not? At the trial, do you remember?

MR. YEAGER: I think the government had witnesses that had applied at various periods of time.

THE COURT: That's my recollection, who were not plaintiffs in Rios, and who had applied. In other words, I sort of think of them in maybe a different category than the others. Of course, one of the things, and this all being

equitable as far as I am concerned, Mr. Brook, I don't have the foggiest idea of what the Union's financial position is, I don't know whether you do.

MR. BROOK: As I understand it, it is rather poor.

THE COURT: Rather poor. I think it is, because that has got a bearing on this thing. To me it has got a bearing. And I am perfectly frank about it, that one of the things that bothers me here, and you fellows have brought out a lot of fine authorities, I don't think Local 638 is in the position of Bethlehem Steel.

Inherently, these things come out of the members of the Union. There is no question about that in my mind. That bothers me a bit. So what I do, I am certainly going to have that very much in mind in what I do, because I do think in all this I am really sitting as a court of equity, and my problem is directed at what I think is fair, and I am going to try to reach that determination.

I just mention this to you, Mr. Brook. I don't know whether unions or this particular Union puts out any kind of financial information for its members, but if they do, I'd sort of like to see it. I suppose they probably have an annual meeting, don't they, the Union, and the probably discuss their financial affairs, don't they?

MR. BROOK: I haven't seen them. I imagine there is some form --

THE COURT: Would you look into that? I'd sort of like to know about it a little more.

MR. GLASSMAN: Your Honor, if the Court would like some information regarding the financial condition of the Union, we would like an opportunity to submit any papers in the government's possession. For example, the Department of Labor may have some reports.

THE COURT: Fine. All right. Yes, I would like to get some information on that in resolving these issues. One thing, Mr. Yeager, too, that puzzles me a little, and I don't know the answer to this one, either -- I suppose I should. If your organization is awarded attorneys' fees, what happens to the money the Union would pay?

MR. YEAGER: It would go into a corporation, your Honor, which is the National Employment Law Project, Inc., from which expenses and salaries and so forth for the project are met.

THE COURT: Well, the main financing comes from the United States, am I right in that?

MR. YEAGER: That's correct.

THE COURT: So that if you were to recover

attorneys' fees, what would happen? The United States would pay less to you or what?

MR. YEAGER: Well, that would depend. I would argue strenuously to the United States that they shouldn't pay us less. But it is possible that that might happen. But there is no reason that it should. I think that is a fairly remote possibility.

Most of the attorneys' fees in this case were earned during the period that we received the money only from the Office of Economic Opportunity or at least most of the ones that are included in the affidavit that we submitted to date were there, and there is no suggestion in that grant of any sort that it would be reduced in some way by an award of attorneys' fees.

The E.E.O.C. money that we have, that we acquired later, does suggest at some point in the future we might become self-sustaining through earnings attorneys' fees and presumably if we become self-sustaining, they would reduce the amount of money they are giving us to zero.

THE COURT: When did that change take place?

MR. YEAGER: We received the E.E.O.C. contract a year ago this past July, July '73.

THE COURT: Before that it was O.E.O.?

MR. YEAGER: It was O.E.O. Now it is both.

That is an accounting matter, we charge it to both.

THE COURT: You don't get any money from O.E.O. now?

MR. YEAGER: Yes.

THE COURT: You still get money from O.E.O.?

MR. YEAGER: In fact, most of our money comes from O.E.O.

THE COURT: It does?

MR. YEAGER: Yes.

THE COURT: Could you send me something on that subject, the allocation of the funds coming in, say, from the time you were engaged in this case, which I guess is quite a long time now.

MR. YEAGER: You mean the sources?

THE COURT: Sources of your funds apart from O.E.O and apart from E.E.O.C., if I am giving the right name, because, again, I am trying to be fair and I am trying to do equity, and I think I would like to get that, too, if I could.

MR. YEAGER: Be happy to oblige.

MR. BROOK: Your Honor, concerning the financial statements or records of the Union, as I said, I don't know what they are or exactly what they would show, but may I request that the submission --

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THE COURT: I have a jury out and I have a note. Excuse me one minute.

(Pause.)

MR. BROOK: I would like to make two requests concerning that. First, that the Union be the one to provide such information and, secondly, perhaps that depending on what it is and what the attitude of the community is on the subject, that perhaps it would be done in camera, and the reason for that is this: at an earlier stage in the lawsuit, the plaintiff sought permission to go through M.C.A.'s minutes. Your judgment there was that they had the right to do so, but only for purposes of this lawsuit. Union counsel was not permitted to go through the minutes. We were given the opportunity if the plaintiffs found anything to perhaps then look at it.

Likewise, the posture between M.C.A. and the Union is such that its financial records perhaps should not be made as fully available to M.C.A. as to your Honor, and I have no idea what the position of the Union is going to be on this. This is a possibility.

THE COURT: I understand. I would think, unless I hear some objection, and I would certainly be ready to hear the objection, I think in the first instance if you wanted to send that to me, I would take it and then I would

not disclose it until I had had a meeting with you fellows and listened to all the objections. I would not disclose it later on unless I felt it was important. Would that be reasonable?

MR. YEAGER: Yes, your Honor.

THE COURT: I think that would be reasonable. I can see your problem.

MR. YEAGER: Your Honor, it raises another question in my mind, too, that is, the J.A.C. and the M.C.A. are still before the Court.

THE COURT: That is the next thing I was coming to.

What do you say about that, Mr. Shaw, so far as M.C.A. is concerned?

MR. SHAW: I was hoping that the reason you had not brought it up was because you were not considering imposing damages on M.C.A.

THE COURT: Oh, I never forget you, no.

MR. SHAW: You mean with respect to supplying data as to M.C.A.'s --

THE COURT: No, I'm not thinking about that. I think of them as being in the same category as Bethlehem Steel, rightly or wrongly.

MR. SHAW: Please don't.

THE COURT: The issue is whether the plaintiffs are not entitled to recover attorneys' fees and perhaps a contribution on back pay from M.C.A.

I take it that is really the question.

MR. SHAW: We are very much opposed to that, your Honor.

THE COURT: Why?

MR. SHAW: I don't think there was any finding of fact by you that M.C.A. discriminated in the first place.

In the second place, M.C.A. is an association of employers that does not itself employ and as has been briefed extensively.

THE COURT: Thirdly, I suppose you would say that the particular employers are not parties to the litigation?

MR. SHAW: That's correct.

THE COURT: What do you say about that?

MR. YEAGER: Well, your Honor --

THE COURT: On the plaintiffs' side?

MR. YEAGER: What we have said before, we think that M.C.A. was proven to have taken part in the activities of the Union and the J.A.C. sufficiently to hold them liable in this case.

I think there is some question as to whether or

not your Honor did find that there was an issue of fact, that there was any remaining issue of fact as to whether or not those two institutions, both J.A.C. and M.C.A., were guilty of discrimination in this case.

Your Honor was very careful, and I think generous, not to characterize anyone's activities as being intentional, but nevertheless they were found liable, and the injunction runs against them.

It seems to me that since back pay doesn't require intentional activity or any other kind of bad activity but just discrimination, which is socially bad and perhaps may or may not be morally bad, that they are as liable as anyone else.

THE COURT: I suppose what Mr. Shaw is really saying, even if I were to say they were liable, that M.C.A. as an organization hasn't got any dough; do you think they ought to go through and get it out of the employers?

MR. YEAGER: I suppose we ought to take the same procedure, since we sued M.C.A. and not the employers, I suppose we should follow the same procedure as with the Union and find out what M.C.A.'s financial status really is, because M.C.A., after all, was the employers' agent for setting terms and conditions of employment here, whatever else the employers had done.

MR. SHAW: Your Honor, your finding was that M.C.A. -- you said there was no specific act or you found no specific discrimination, but that M.C.A. should remain a party defendant here because it was a necessary party in order to afford relief. That is precisely what you said. A-1153

I don't think there was any finding of discrimination and there was no evidence, indeed, as we would submit. I think it would be highly inappropriate, your Honor, to impose damages on either ground against M.C.A.

THE COURT: I think the other part of the suggestion is that the Union is going to have to give me some financial information. Would you mind giving me some financial information about M.C.A. in camera?

MR. SHAW: All right.

THE COURT: That's all he really wants to know at this point.

All right, if you would do that, I think that would be helpful.

Now, the other one is the Joint Apprentice Committee. You think you are entitled to something out of the Joint Apprentice Committee.

MR. YEAGER: Your Honor, the point there is simply -- let's take one example, the examination, which was found to have been discriminatory; the previous examination

had a discriminatory impact and overall the statistics in the apprenticeship program again made out a prima facie case of discrimination which was unrebutted. So it should seem that J.A.C. should join in payments of any back claims, particularly those as to apprentices.

THE COURT: I may be wrong; I thought J.A.C. was financed in part by the Union and in part by M.C.A.

MR. SHAW: No, your Honor. The financing of the J.A.C. is provided for in the collective bargaining agreement, and what the provision is -- I think it is ten cents an hour, something like that, ten cents or maybe it is five cents an hour of every man's work is attributed to the J.A.C., and that money is paid directly to one of the five funds to which Mr. McDonnell referred. Therefore, the income of the J.A.C. is fixed at that level for the three-year period, and, of course, it has been an expense having the additional groups of trainees and all that imposing fines or damages upon J.A.C. would do would be to cut down its ability to educate, which is the sole function of the fund.

THE COURT: What about that?

MR. YEAGER: I think that is something we ought to look into. It seems to me that there is an issue about money there.

THE COURT: Is there any question it comes out of the collective bargaining agreement?

MR. YEAGER: Your Honor, I don't recall. I have no reason to think it doesn't.

THE COURT: I must say that makes a good deal of sense to me because I suppose what J.A.C. can do is entirely dependent on the five cents or whatever that comes out to, out of the collective bargaining agreement, is that right?

MR. BROOK: Yes, your Honor; as co-counsel to that body with Mr. Shaw I would concur entirely with what he said as to the J.A.C. and I might add that with the tremendous unemployment which the industry is experiencing, the contribution, the total dollar in-flow is obviously going down, so there are more apprentices to educate with a declining employment base that this cents per hour is taxed on.

THE COURT: Just so I get it straight in my mind, the collective bargaining agreement provides five cents, whatever the figure is, is paid to the J.A.C.?

MR. SHAW: Actually, your Honor, it is to something called the Education Fund of the Steamfitting Industry. The employer pays it.

THE COURT: The particular employer pays the

five cents, pays it into the trust fund?

MR. SHAW: Correct, yes.

THE COURT: And the Union makes no contribution. It comes out of the employer, is that right?

MR. SHAW: That's correct.

MR. BROOK: Except that that five cents per hour, or whatever it is, could have gone to the employees' wages.

MR. McDONNELL: Standard bargaining argument always.

THE COURT: I think I understand that. I think at the moment I would rely on what the Union and Mr. Shaw says.

I do think that where we sit in this lawsuit, that the educational feature is one of the things that is so darn important for the blacks and the Spanish-surnamed people, and I am sure that Mr. Shaw would tell me if this was accumulating a big glob of money.

MR. SHAW: I can assure you it is not.

THE COURT: I wouldn't think so.

MR. GLASSMAN: Your Honor, the government would contend that the particular financial situation of any of the organizations should not be determinative; they may influence the Court's decision, but they should not necessarily control

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the outcome of the case.

THE COURT: I am not saying anything about control. I am saying, as I balance these equities here -- and I don't mind saying that this program, to be successful, is going to depend on the cooperation of everybody, and while I want to do as much as I can to redress past discriminations, I feel strongly about that, that I have got to do this in the fairest possible way; whatever I do is to be done in the fairest possible way, so that in the guise of correcting prior discrimination I am not opening the door to an awful lot more, and I have got that in mind.

Those are the considerations.

MR. GLASSMAN: I would agree, your Honor. The only thing I would add is, if in fact in past discrimination blacks and Spanish people have been deprived of employment, clearly the salaries which they were denied were paid out in some large to present persons working in the industry, and if a portion of a back pay decree results in union members and employees of the industry being taxed somewhat, then there is some precedent for that as well, and I would think that that should be taken into consideration as well.

THE COURT: I guess I was just thinking what would happen to me if someone was saying there's discrimination against blacks in the judgeship business, therefore

I ought to cough up some of my salary five years ago. But I understand your points. I understand that.

Now, gentlemen, I have got to go back down to this jury. Could we leave it the way we have, and you will supply this information, and you will talk amongst yourselves and see how far you can get on the quota, and I will be glad to sit down with you after you do that, if there is anything I can iron out.

If all of that fails, then I am going to want a hearing and I will make it just as short as I can, so that if it goes back up to the Court of Appeals they are not going to be in any doubt at all as to what the basis for the decision was, and they are going to have the actual chapter and verse.

MR. BROOK: Your Honor, if I may just respond to something Mr. Glassman said in terms of the overall equitities. I think it should be noted again as we have done in our brief, that the Union is the entity which is shelling out all of the money for this affirmative action program.

We have received no government funds either from O.E.O. or E.E.O.C. or anyone else. It is the Union which is footing the bill entirely.

Secondly, and more important, to the extent that

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the newly admitted minorities are obtaining work in this depressed economy, that means that whites are out of work, and it is a pretty tough thing for somebody pounding the pavements because of catch-up or affirmative action program to then be compelled to foot a back bill. In a very real sense, the whites are subsidizing this program and making way for non-whites on the job.

THE COURT: All right.

If you gentlemen want to sit around here, you can sit around as long as you want.

* * * * *

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A P P E A R A N C E S : (continued)

RICHARD S. BROOK, ESQ.,
Attorney for Defendants Enterprise
and Union Designated Members

THOMAS A. SHAW, JR., ESQ.,
Attorney for Defendant Mechanical
Contractors Association and
Employer Trustees of the Steamfitters
Industry Educational Fund

VINCENT D. McDONNELL, ESQ.,
Administrator

- - -

(In chambers.)

THE COURT: Gentlemen, I thought we might start this meeting, if it's agreeable, by asking Mr. McDonnell if he would like to say anything about how he sees things going here, before we get into other matters.

I would be greatful if you would do so.

MR. McDONNELL: The one thing, your Honor, that I did want to bring up is that at the end of this past year, in December, I received a request from the M.C.A., from Mr. Shaw and from the union, from Mr. Brook, in a joint letter, advising us that there were over 200 apprentices who had been unemployed or were unemployed and had been, some of them, for some period of time. Some had not worked at all in six months.

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minority workers.

The same is true on apprentice workers, where 105 minority apprentices worked and 290 apprentices worked. The minority apprentices worked 89,165 hours. The white apprentices worked 399,678 hours. Then the minority trainees, all of whom are minority persons, 69 of them worked 55,135 hours, so that would be added to the apprentices and/or the journeymen to get the true figure of the overall amount.

It comes out in the general order of magnitude of the percentages in the industry at the moment.

All of the persons who applied under the transitory provisions have either been tested or I think there is one or two who they are trying to contact who have not been tested, and those who have passed have entered into the industry, white and black, and those who have failed have been notified and some did not show up for the examination.

We are now in a position of being able to move forward, depending upon the unemployment situation.

In that connection, the cost during the four billing periods subsequent to -- just to give you a general idea, subsequent to September 30th, the cost of the billing from Technowell to the union, the bills at least

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that were sent to me came up to the order of $18,264 for the tests alone.

The union has indicated that Technowell who originally was involved in the testing and were favorably disposed to all parties, particularly the minority groups, where the representative of the minority groups who sat in on the examination was part of Technowell at one point. Whether he is now or not I don't know, but he was. They have done fairly good work. They have increased their cost from $25 to $50 a test, which is somewhat of a substantial increase over the period of time.

In any event, despite all of these difficulties it has moved forward and is moving forward, and one phase of the order has been completely complied with, and now we are up to the next. I haven't the specific figures as to the number of minorities in the union since my last report to you, your Honor. I can do that. I do know that the R.T.P. raised another question and that was that some of the minorities, because of unemployment, were not able to make payment of the $800 initiation fee, and this was the subject of a letter from R.T.P. to me and the subject of several conversations with Mr. Yeager's people and others.

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The union has waived the payment, delayed the payment of that, and it's well over, they tell me, it must be $100,000 or $130,000 that they have not collected and deferred because of the unemployment, so they are cooperating in that direction.

Mr. Brook will speak on the union's condition money-wise now. I have advised them that my job here is to continue the order as long as the order is as it is, and that is exactly what we are doing, and the only thing we have not done consistent with the order, and the authority you have vested in me, is to postpone the 100 class of apprentices. Other than that, we have proceeded as the order indicates.

THE COURT: Holding that class in abeyance, you sent me a copy of a letter you wrote to Mr. Yeager on January 22nd, I think, on that subject.

MR. McDONNELL: Yes, I did.

THE COURT: I received that this morning.

MR. BROOK: If I may, your Honor, there are a few factors I would like to call to your attention in terms of what sort of shape the union is in in several different ways.

The apprentice program is in bad shape because of the unemployment situation. Close to half of the

apprentices are not working now and a large part of that group have never worked. The situation got about 50 percent worse since the time Mr. McDonnell made the ruling he referred to. At that time there were about 212 apprentices out of work. Now there are over 280.

The unemployment generally is remaining bad and in fact getting worse. Just today I was able to get on the telephone some updated statistics from the New York State Labor Department. I haven't had them typed up, so I can't provide them, but they show that the downward trend is continuing and compared to the comparable period of last year it's down significantly.

Also, those figures just go up through mid-year, and the picture should be even worse for the second part of 1974.

THE COURT: The figures of the New York State Labor Department only go up to June 30th of last year ?

MR.BROOK: Yes. And the figures for the third and especially the fourth quarter, when the seasonal lull is at it's greatest, will probably indicate that it's even worse.

I think it's been fairly well publicized by everyone from President Ford on down that the construction industry nationwide was perhaps the first to feel this

recession or depression, and it's still suffering tremendously and disproportionately from it. The New York construction industry has been hard hit compared with that in other cities, and the steamfitting industry in particular is very hard hit.

Another aspect which I would like to call to your attention is the fact that the trade agreement is coming up for renegotiation. The contracts and the union will be exchanging proposals within a week or so.

THE COURT: When is the present collective bargaining agreement expiring?

MR. BROOK: It expires June 30th.

In addition to requiring a lot of time and effort on the part of the union to negotiate, there is certainly the possibility that the union will have to engage that strike to get what it demands and to do what it thinks necessary to protect the rights and interests of the members. The last time the contract was negotiated there was a 13-week strike.

This is something which is going to be a tremendous financial strain on the union.

THE COURT: Maybe we will have a wage-price freeze before that.

MR. BROOK: We hope not, your Honor.

MR. SHAW: You wouldn't mind a price freeze, just a wage freeze.

MR. BROOK: That's right. I will agree with that suggestion by Mr. Shaw, we want a price freeze.

In addition to the contingency of a strike, during which there would be no income at all to the union, the costs of the affirmative action program are quite high, as Mr. McDonnell pointed out, and because of the unemployment, people are late in paying their dues. A small fortune in initiation fees has not been collected. And perhaps most significant, a large part of the union's finances come from a one percent work assessment, and with so many people not working that has also dried up tremendously.

So the expenses are going up and the income is going down, and there is one thing I would like to emphasize and call to your attention, and that is that the union is in the business of representing employees. I am going to be in the Court of Appeals on Monday on a secondary boycott issue, something having nothing whatsoever to do with civil rights, with race. The union has to protect its trade jurisdiction from these rival unions, it has to engage in concerted activity vis-a-vis employers. All of this costs money and all of this takes time, and the union is really in a position

where its normal operations are being hampered, and this is detrimental to the 16 or 17 percent minorities that are in the union just as it is to all of the white members.

If the entity being regulated is regulated much more, if there isn't some relief, it's not going to be able to function and do what it's supposed to do, and that is to get the best wages and conditions it can for its members.

The unemployment and the increased cost of living has caused a lot of the union members to have to seek employment out of town. Some of the members are in jeopardy of losing their homes. An increasing number are going on welfare. They are taking jobs in other industries. It's a drastic situation, your Honor. The union has complied to the letter and with the spirit of your order.

THE COURT: I think they have, and I think everything that I have heard supports that view.

MR. BROOK : The point I am trying to make is that there has to be some relief for the union. The membership, especially the large number that are unemployed, are in a state of despair and in a state of desperation, and there is just so much by means of affirmative action which the union leadership is able to sell to the members,

if you will. There are some union officers that are thinking of resigning because of the pressures on the job occasioned by tremendous numbers of unemployed and the need to protect the trade and to keep the entire operation rolling.

I think in that connection there are a few things which we would like to request. One is -- I hope, and I guess this is the major subject of this meeting -- and that is a reduction in the goal along the lines the Court of Appeals contemplated. Another would be a general freeze or moratorium on new admissions until this unemployment can ease up.

Then there are a few things which I think perhaps the government could do, not necessarily Mr. Glassman in his role as Assistant U.S. Attorney but the government generally, perhaps under the suggestion of the Court, and that might be to get some federal money in for training programs or retraining programs. I think the union is operating as perhaps the most effective civil rights affirmative action program in the country and if millions of dollars are being passed out to make work maybe some of it can come in the direction of this union.

The other point is the awarding of government

work to non-union or to other unions representing steamfitters. As I said, this encroachment on 638 is an extremely serious matter.

These are various points which are raised with me whenever I see anyone from the union.

THE COURT: Is this a rather common labor's phenomena, that when an industry is depressed that there is a lot of competition among unions? I suppose this is a nalional thing, is it not?

MR. BROOK: No, your Honor. There are two related factors here. One is a competition amongst various crafts for work which is marginal or borderline between them. That exists. And there are certain problems. But that isn't what I am talking about.

The major problem is rival unions in the same crafts, many of whom use means of unfair competition, to so speak.

THE COURT: You are referring to a teamsters union and one other union?

MR. BROOK: And an operating engineer's union.

THE COURT: Is that a national phenomena when the industry is depressed, more apt to happen than when an industry is prosperous?

MR. BROOK: No, the first phenomena of

different crafts fighting for work which borders on both would tend to occur when the industry is depressed. The other phenomena of questionable unions trying to enter is a question of when the government isn't looking, these people rear their ugly heads in one form or another. I don't think that is a function of the committee, your Honor.

THE COURT: Mr. Shaw, do you want to say anything about the industry from your view?

MR. SHAW: I can only confirm that the situation is very serious. The prospects in terms of contracts that are up for bids or that we know about are very poor indeed, and there is a minimum of a six-months drag, so that six months from now there is going to be apparently a good deal less work than there is now so far as we know. There have been a few of the relatively major national contractors that have already gone under. M.C.A.'s membership is certainly off. Our dues depend upon the amount of hours worked. It's a direct relationship between the two. Of course, they are very seriously off, so that M.C.A. as an association is in very serious straits, as is the whole industry. Apparently, this area is about as bad as any in the country.

again this percentage goal; the other thing is back pay and the other thing is attorney's fees on behalf of private plaintiffs, but before I do any of that, I think I would like to hear from Mr. McDonnell, if he would like to bring us up to date as to how the program is going and tell us how things look to you.

MR. MC DONNELL: The first thing that I am sure everybody is aware of, the industry, as all construction industry, is in a terrible depression is a better word than recession. There is just a tremendous amount of people out. There is almost no work in the pipe line at the moment. I talked to the Mayor about it myself to see if they could do something with respect to getting construction going in the City. He is very sympathetic. He has been down to Washington to see if he could get something going. That has compounded the whole thing. But notwithstanding that, we have continued to take in applications. They have contacted RTP -- they, the Unions, contacted R.T.P and asked them to send in the names of minority people for the apprentice program so we might have a backlog of people in the program and that's about where we are now.

THE COURT: How about anything new about the apprentice program?

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MR. MC DONNELL: No. The apprentice program is in a situation now that it's been in for about six months, namely that an awful lot of apprentices are not working. I made a judgment sometime ago that whether they are working or not their time would continue from the point of view of increased wages and completion of the program.

I asked them to see if they could get some academic work in even while they are not working and they are looking into it, but it is very bad. The situation goes two ways, one when you insist they put apprentices in they lay off a journeyman and put an apprentice on, which is not really the idea of the program.

THE COURT: Yes.

Mr. Brook, do you have any figures on employment or unemployment in the A Branch?

MR. BROOK: No, I don't. The amount and extent of unemployment has increased, if anything --

THE COURT: Since January?

MR. BROOK: Yes. There is somewhat of a snowballing effect. There is very little new construction, either on the drawing boards or actually commencing and the unemployment situation is at least as bad as it was a few months ago and tending to get worse.

THE COURT: You wouldn't have any figure taking

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the A. Branch, as to how many of them are out of jobs?

MR. BROOKE: No.

THE COURT: Did you keep figures on that?

MR. BROOK: We had figures on that at one point and they have not been updated for a few reasons.

First, the overall employment picture has gotten worse, not better, and second, the best means of measuring the unemployment by its own definition has failed, namely, the Security Benefit Fund which provides a supplemental unemployment benefit. Those contracts are on an individual basis so that once the man exhausts his account there --

THE COURT: How long do those run?

MR. BROOK: It would vary by the individual. The basic scheme is to try to match the unemployment benefits provided by the State, but once the individuals account runs out --

THE COURT: In other words, he has put in something, I take it; he puts in something and it depends on how much he has got in it?

MR. BROOK: Yes, sir. I believe it is $1.55 per hour contribution which goes into that fund for each man and he can draw that money out either as a supplemental vacation benefit or supplemental health benefit or supplemental unemployment benefit and once that account reaches

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zero that individual would no longer register as a statistic and those are the people that are unemployed for the longest time, so that our method of measuring as to a large extent has dried up.

I would say there is in the industry on the whole somewhere between 40 and 45 percent unemployment.

MR. MC DONNELL: That's about what I think.

THE COURT: 40 to 45 percent.

You say you see no light at the end of the tunnell?

MR. BROOK: No, your Honor. The one bright hope had been atomic energy power plants and that has gotten into a collision course with environmentalists and with pressures from oil companies and so forth, and that is not picking up.

In fact there are hearings now concerning power plants in Long Island and it was work which might have generated some jobs in Westchester and both of those are stymied.

The Governor in effect, accounted a moratorium on atomic energy power plants, so that was the only point for a large number of jobs in the future.

THE COURT: I was mentioning to Mr. McDonnell that there are two enormous holes in the ground on 168th

too much about the authenticity, it is going to be the weight that counts.

Why don't we do this, gentlemen. Let's put it down for 2 o'clock p.m. on the 17th and then if we run over to the 18th I will still be in Part I and we can finish it up on the 18th.

Will that be reasonable?

Mr. O'Reilly, do you have any comments on this subject?

MR. O'REILLY: No, threw out this, the mechanical contractors have taken no position on the percentage of Union membership and we have no position to take here on it.

I have got two other matters here, and that is the back pay and attorney's fees. I have been giving that an awful lot of thought. The way I am going to resolve these issues is on an equitable basis as the best I can.

I start off with the premise that the Union did discriminate and of course, I found that out both in the preliminary injuction and the permanent injunction. As a matter of equity, since the permanent injunction I have no reason and nothing has been brought to my attention that the Union hasn't been living up to the terms of the injunction and indeed has been most cooperative in resolving this

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question.

I am also conscious of what has been reported here as to the unemployment and I am conscious that the Union has or may have financial problems as to which further may be developed later on.

So with that background, I don't think a review of the cases insofar as I have been able to review them, does indicate that within rather strict guidelines there should be some kind of a back pay award. As I recall it, there were several witnesses during the trial who testified that they made applications to the Union and had been turned down and heard nothing; they gave the application to a lady at the Union and it disappeared.

As to how to handle it I would like to talk to you about it. I think there should be a rather strict statute of limitations as to how far this can go back and I think the ending period or the statute of limitations would be the date of the entry of the permanent injunction. One possible statute of limitations might be the EEOC which I think has a one-year statute.

Another possibility could be the State Civil Rights statute which I think is a three-year statute. So the commencing date would either be one year or three years before the injunction. I wouldn't go back any further than

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that.

When was the Rios suit filed?

MR. YEAGER: March of 1969, your Honor, or the end of February.

THE COURT: Not '69.

MR. YEAGER: '71.

THE COURT: I'm wrong, then.

MR. YEAGER: So am I.

THE COURT: If it was the one year statute, it would go back one year prior to the filing of your lawsuit. That was the first thing that brought it on.

And if it was a three-year statute it would run for three years prior to the filing of your suit. I would be interested in any views. I know you haven't had any chance, but anything you want to submit as to what kind of a statute of limitations should apply I would be glad to receive on that.

Also, before you do that I think I would also like to put in some conditions here, first that the applicant had applied in writing for membership in the A Branch; that he heard nothing or was told to go home and there was evidence that some white fellow came in after that and he got into the A Branch. To show that he was qualified for admission under the standards of the judgment on June

21, 1973 and that he suffered monitary damages as a direct result of the denial of admission.

Those would be in general the criteria that would hit me.

Then the question of how to have these matters determined is an open one. I thought and one thing I had in mind is if the plaintiffs and the Union could agree on some kind of a special master who would hear these claims, that would be satisfactory to me.

The other thing is when we go through this process, I will consider the Union's ability to pay. I don't know how much these will amount to. It may not amount to much, but I will take into consideration the Union's ability to pay or when they can pay because I do have in mind that the back pay is coming out of the Union which has come in from contributions of Union members and it isn't the Union members who were charged here with discrimination, it was the Union itself so that it may be on that ability to pay there might be some question as to whether I will prorate these awards for back pay. I have that in mind, too.

The same thing is true as to -- not the same procedure, but the same principles, it seems to me apply to the attorney's fees here for the Rios plaintiffs. I

think they have done an excellent job. I couldn't deny for a moment that. They have started the thing and they have done an excellent job all the way through. I am satisfied from reading the cases that even though they are financed as a pro bono publico organization, the cases indicate, although not clearly in this circuit, but I think generally speaking that they are entitled to attorney's fees, but here again subject to the equities in the case, which is certainly more true with them than it would be if they were a private attorney who had brought this and carried it all on his shoulders. There again I think they are entitled to attorney's fees, but again limisted on the basis of the financial condition of the Union and I would say as a matter of equity I would not award the plaintiff's attorneys the full amount of the fees they have asked for here, which, as I think on the last one, was $133,000. Just as a matter of equity -- it doesn't mean that you haven't done $133,000 worth of work, Mr. Yeager, or you and your firm, but because of the fact that you were Government financed and because of the other conditions of the claims here, I wouldn't allow you that. What is in my mind to allow you is somewhere around $50,000 in expenses.

That isn't saying you didn't earn 133,000, perhaps you did, but as a matter of equity in the four cor-

ners of this picture, I wouldn't allow you the full amount and I have been thinking in terms of around 50.

I think somewhere, Mr. Brook, and I don't know how you would like to do this, somewhere along this ability to pay looms large, as you can see, from what my thinking is here.

What can you produce for me on this ability to pay because I think that's going to be necessary to conclude this thing.

MR. BROOK: I have a few comments on what you just said.

THE COURT: Go ahead.

MR. BROOK: First I don't think the case law or the statute in light of the facts in this case in any way require an award of back pay or of attorney's fees. I think that both items are to a large extent matters for your Honor's discretion.

That's the first point. I don't think either is required.

THE COURT: All right.

MR. BROOK: Second, I might just note that the Union is not the only defendant in this case.

THE COURT: No, I have thought about that and I read the decisions. I am not inclined to believe that I

can attack MCA or the joint apprentice committee here. There are cases that might indicate that MCA is an employer and I think perhaps the back pay ought to come out of them, but all the testimony I remember at the trial was -- it never got to that point, it was all the Union, isn't that correct?

MR. YEAGER: Well, your Honor, toward the end there was testimony from at least one of the named plaintiffs in the private action, I know, that MCA had direct contact -- he had direct contact with MCA and he had been told he couldn't work for MCA members or had gone through the Union.

THE COURT: Yes, and I take it that was necessarily true because that was the collective bargaining agreement of the Union, wasn't it?

MR. YEAGER: I think our point would have been that they could have tried to do more than that, rather than bear complete acquiesence in the Union system because at that time to be a member of the Union you had to be white.

MR. BROOK: Your Honor, the final point I would like to make at this time on the subject is that bankrupting and financially crippling and destroying this Union is, I think --

THE COURT: You don't have to make that point.

I agree with you. I don't want to financially cripple or destroy this Union. We don't have to do that, but I want to know what the story is. I don't want to do that. Absolutely, I am trying to be as fair as I know how from your point of view as well as the other points of view and that is my purpose here. I don't think anybody would gain by that. We have gone through this litigation now and we have go affirmative action program. We have got a fine administrator. We have got a difficult economic situation and we are all trying to life with it and I want to make this thing succeed and that's been my point right from the beginning, from everybody's point of view.

MR. YEAGER: Your Honor, first I would like to thank you for the kind remarks about the way we have handled the case. That was very nice of you and I suppose to a lawyer worth more than the money.

THE COURT: Well, I am not sure of that.

MR. MC DONNELL: Don't push the point too hard.

MR. YEAGER: Yes, but I did have one question on the back pay that I am not certain of. It does sound like that is the parameters of the way the problem has to be dealt with, but there was one thing I wasn't clear on and that was a question of the apprentices and the back pay for them. Is that to be treated in the same way,

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when an apprentice applied in writing --

THE COURT: How many instances do we have of that?

MR. YEAGER: I don't remember exactly, but it is set out in the table, in the footnote of people who passed and failed the test.

THE COURT: The footnote to what?

MR. YEAGER: On your Honor's decision on the merits. That gives us the guide to the number who passed or failed the test. We don't know from that other things that might have -- we don't know about an arrest record or something like that, that would have to go on an individual basis.

THE COURT: I don't know what you would do with an apprentice, really. It is more speculative than the fellow who came up to the Union and applied, isn't it?

MR. YEAGER: Presumably his application has matured even more than the journeyman members has. I suppose the difficulty would be in calculating what his loss was during that period.

THE COURT: Let's see what you would do. Supposing you had a fellow who applied for the apprenticeship program back in 1970 and he was turned down. They said no, you are black and you don't get into the

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apprentice program, and a white fellow next to him walks in. How would you calculate his damages? First of all, he would have to successfully complete the apprenticeship, wouldn't he?

MR. YEAGER: Not if he earned less working somewhere else than he would have earned working in the apprentice program.

In other words, I think the first thing you would turn to would be how much he would have earned as an apprentice to how much he earned at the other job and you would calculate it.

THE COURT: How would you calculate that, on the basis of what the other apprentices on that particular day might have earned?

MR. YEAGER: There is a schedule. You can look at the collective bargaining agreement and it tells you what percentage of a journeyman's pay an apprentice would get. It seems to me the problem comes out about the same as it would for journeyman which is if you know a pay rate and you know how much the earnings were at other work.

MR. GLASSMAN: Since the wage rate for apprentices is obviously lower than journeyman there may not be people eligible to money as compared to what other job they were doing, but I think the Government would contend

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that the particular individuals who received lower pay in the period could be ascertained in the same way as people who had full skills.

THE COURT: What I would like you to do with that, and I am perfectly open minded about it, the thing that high me at the trial, and I haven't read that record lately, but the thing that hit me were the fellows who went to the Union and could you fellows brief that for me, the apprentices as far as the trial record, to indicate how big a problem that was? Indicate the standards that you are suggesting. It would be the same standards that I have got who was turned down at the Union, I take it, except there the fellow who was turned down by the Union, you would have to establish that he was qualified to do a steamfitters job and an apprentice was just starting out, so he wouldn't have to show that, would he?

MR. GLASSMAN: He would have to satisfy the basic requirements for getting into the apprentice progra

MR. YEAGER: Could I return just briefly one other thing, the question of MCA liability? I mentioned one aspect of the discrimination that we thought we had shown on the trial on that question, but another aspect is presumably MCA would be responsible for discrimination by the JATC, which was found to have used discriminatory tests and so

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forth and therefore I would suggest for the apprenticeship part of the case at least MCA should be as liable as the Union.

MR. O'REILLY: Your Honor, may I be heard?

THE COURT: Wait a minute, before you get heard, I said in my decision, "Having fround that MCA was properly made a party defendant in the Rios action, this Court, however, does not of course imply that MCA has been responsible ipso facto for all the employment practices here found unlawfully discriminatory or that it is liable in damages to the plaintiffs in Rios. Plaintiffs have shown no specific instances of MCA discrimination. Rather, plaintiffs have demonstrated only that there has been a lack of non-white employment in the industry generally and that in consequence the industry's federal practices must be changed. For the future MCA will bear responsibility with local 638 and JAC to take appropriate affirmative action to correct this situation. Accordingly, MCA's motion to dismiss the Rios action as to it is denied.

In other words, I am not sure. Now you can say what you want.

MR. O'REILLY: I was going to refer to that point.

THE COURT: You were going to refer to that?

MR. O'REILLY: Yes, and point out that the JAC is an independent organization and that there are trustees and members of the JAC and that failure to maintain or to differentiate between the two I think is a mistake and not acceptable or legally justifiable and quite apart from that on the question of liability, while your Honor remembers testimony about blacks whose applications were accepted and told to go home. The evidence with respect to the JAC was quite different, namely, that there were tests that were approved and used by -- administered by Stevens Institute of Technology that were used.

There was no evidence whatever that these tests were used or for the purpose of eliminating any minority groups whatever and I think the situations are entirely different with respect to individuals who passed the tests that were then given and the situations that your Honor referred to with respect to journeymen membership.

MR. YEAGER: I think the documents govering the JAC specifically contemplate a formal and very official role for HCA in the direction of the affairs ot the JAC and that the HAC members of the committee clearly took part in the decisions that were made to do things such as administer discriminatory tests and the question is not whether that was intentional, that has nothing to do with this case, it's

rge

simply a question of whether they participated in acts that caused people to lose money.

THE COURT: What I mentioned in my opinion, "stipulated results of the written tests given to apprenticeship applicants since 1967, but not including 1973, indicate that they have had a different impact on non-whites compared with the results for whites. While the passage rate for whites was 51.37 percent, the passage rate for blacks was 10.37 percent and for Spanish surnamed applicants 11.11."

Then I referred to the testimony defendants produced at the trial which I said, "was not sufficient to demonstrate the written examinations validity or job-relatedness."

Then I discussed the Stevens Institute tests and also the 61R, S-61R test. I said, "While at the present time there is no evidence that S-61R may not discriminate against non-whites, there is equally no evidence that it does. It appears that in another context courts have approved use of the GATB and this Court will permit the use of S-61R pending a further examination from the administrator to be appointed hereunder."

You made no recommendation on that as yet?

MR. MC DONNELL: No. You talked in terms of the

validity of the tests and other tests and the only thing that was done was there was some discussion at the Arua in Washington and some of the people in Washington were considering new tests and there was a discussion of some new tests in text, but there is no evidence or no information on any other test that I know of.

Further, it seems to me that since we set it up so that in regard to this specific case, that the minority group would be put on a separate list from the whites, that the test in no way could preclude minorities from coming in. They could come in right under the percentages to come in. At some point in the future when there would be one test and all would take the same, that would have to be done.

MR. YEAGER: The way we have been dealing with that is by separately arranging them.

MR. MC DONNELL: Yes. I said at this period of time there is really no problem on it because whatever the percentage or group or number of minorities have to go into the apprentice program, that number will go in. There is no constriction on them whatsoever. They compete against each other with that test.

THE COURT: Yes.

MR. YEAGER: The plaintiffs at this point are

rge

pretty much satisfied with the way that system has worked for the last class using that test as long as people are arranged separately so that way it really doesn't have an adverse effect on one race, vis-a-vis the other, but those earlier tests are the ones that we are primarily concerned about, the Stevens test. Those are the ones on which the statistics which your Honor cited are based and those are the ones that kept quite a few minorities out of the Union.

THE COURT: I think I would like to give you a chance to brief that point and I would like to give him a chance to file a brief on the other side, which I know he wants to do and I would like to leave that open. I would like to leave that open for consideration.

Again, it would be with the same statute of limitations and it would run back from the date the Rios case was filed, I think it would be on the same basis. I would like to give the Union, of course, a chance to file a memo on these points that they don't agree with, I am sure, and I will consider that.

I haven't reached the apprenticeship program and I would like to consider that further on the basis of what you have given me. I have been considering only the denial of admission to the Union on which there was a good deal of testimony during the trial and I would like you, Mr.

Brook, to give me what you want to give me on the Union's financial position and I would like to consider that as I have indicated.

How soon could we get this done?

MR. BROOK: Well, there is some information which I have provided and I guess I could get additional information to you I guess, somewhere between two weeks and two months.

THE COURT: Let's see, what is today, this is the 17th.

MR. BROOK: Your Honor, I didn't mean that facetiously. There are some reports and information which just can't be obtained sooner than in that time period.

THE COURT: One thing about that. I would like any information you have about the Union's ability to pay. I know the Union's policy is you don't want these things to go all over the place, but I do think the administrator and counsel for the plaintiffs should be privy to whatever information you give me on the financial condition of the Union and I think it is on the understanding that it is purely for the purpose of these determinations and it is not for the purpose of broadcasting around, but I think they are entitled to that and I would like them to have it.

All right, supposing we take April 10 as a time

A-1192

GEORGE RIOS, et al.,

Plaintiffs,

V.

ENTERPRISE ASSOCIATION STEAMFITTERS LOCAL UNION NO. 638 OF U.A., et al.,

Defendants.

ANSWERS TO WRITTEN INTERROGATORIES

71 Civ. 847

Defendant, ENTERPRISE ASSOCIATION, STEAMFITTERS' LOCAL UNION NO. 638 OF U.A., answers Plaintiffs' written interrogatories as follows:

2. GENERAL INFORMATION

A. 841 Broadway, New York; (212) OR 4-3937; 9:00 a.m. — 4:30 p.m.; no work referrals.

B. Thomas J. Murray, President, Caucasian, 434 East 52nd Street, New York; John J. Tracey, Business Agent-at Large, Caucasian, 25-44 Murray Street, Flushing, New York; James A. Mulligan, Secretary-Treasurer, Caucasian, 142 Meyer Avenue, Valley Stream, New York; John J. Sheeran, Asst. Secretary-Treasurer, Caucasian, 4209 Oneida Avenue, Bronx, New York; Christine Cullen, Telephone Operator, Caucasian, 31-41 47th Street, Long Island City, New York; Josephine Szam, Secretary, Caucasian, 115 City Boulevard, Staten Island; Yola Amulevicz, Billing Clerk, Caucasian, 1095 University Avenue, Bronx, New York; Marie Welker, Secretary, Caucasian, 104-61 121st Street, Richmond Hill, New York; Carman Quinones, Clerk, Spanish, 35-27 81st Street, Jackson Heights, New York; Evelyn Garcia, Clerk, Spanish, 87-15 Britton Avenue, Elmhurst, New York; Reba Saposnick, Clerk, Caucasian, 44-15 Colden Street, Flushing, New York;

James T. O'Donnell, Asst. Secretary-Treasurer, no longer in employ, Caucasian, 35-27 81st Street, Jackson Heights, New York; Marcia Ledwith, billing clerk, no longer in employ, Caucasian, 136 Arlington Avenue, Staten Island.

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C. Howard A. Kerr, Director, Caucasian, 75 East 45th Street, New York; Elizabeth H. Jennings, Secretary, Caucasian, 75 East 45th Street, New York; Henry Dolle, Teacher, Caucasian, 55 Pennsylvania Avenue, Mt. Vernon, New York.

D. See Exhibit "A". Independent employers have the same labor agreement as members of MCA.

E. See Exhibit "B".

F. See Exhibit "C".

G. Kindly see answers to written interrogatories directed to the Apprenticeship Committee.

H. See Exhibit "D".

I. Copies attached.

J. Two conferences with Robert M. Weitz, Hearing Counsel of Commission on Human Rights of the City of New York. The first conference was attended by James A. Mulligan, John J. Tracey and John A. McAvinue, Esq. The second conference was attended by James A. Mulligan and John J. Tracey. Sixteen minority group members were made members of the Union. See Exhibit "B".

K. No documents have been altered or destroyed.

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L. No requests are placed by employers with the Union.

L. 8 Unknown.

L. 9 Unknown.

M. Unknown at this time.

3. GENERAL MEMBERSHIP

A. 1. Approximately 4,000 each year.

2. 1960 - 147; 1961 no class; 1962 - 225; 1963 - 79; 1964 - 54; 1965 - 1966 no class; 1967 - 44; 1968 - 92; 1969 - 101; 1970 - 95; 1971 - 102.

3. 1960 - 1966 none; 1967 - 5; 1968 - 5; 1969 - 14; 1970 - 14 1971 - 21.

4. 1960 - 1966 none; 1967 - 2; 1968 - 2; 1969 - 7; 1970 - 7; 1971 - 10.

5. 1960 - 1963 none; 1964 - 7 Blacks; 1965 - 1966 no class; 1967 - 2 Blacks; 1968 - 5 Blacks; 1969 - 5 Blacks; 1970 - 2 Blacks; 1971 - 2 Blacks.

6. 1960 - 1963 none; 1964 - 1 Spanish surnamed; 1965 - 1966 no class; 1967 - none; 1968 - 2 Spanish surnamed; 1969 - 2 Spanish surnamed; 1970 - 1971 none.

7. 973

8. Kindly see answers to written interrogatories directed to the Apprenticeship Committee.

9. a. 144; b. 45; c. 135; d. 43; e. 40;

10. a. 973

b. 973

11. a. none; b. none

12. Unknown

13. Unknown

14. 434

15. None

16. Unknown

17. Unknown

18. All apprentices

19. Approximately 60 per year

a. Unknown

20. 973;

a. 973

21. Unknown

22. None for any period of time except during strikes.

23. 27

a. 27

24. None

B. Metal Trades Branch

1. a. 1960 - 1968 unknown at this time; 1969 - 2966; 1970 - 3335; 1971 - 3656.

b. Approximately 300 Blacks

c. Approximately 200 ~~Blacks~~ Spanish surnamed

C. Non-Members

1. Unknown

business or office if there is work available. For identity of business agents and officers see answer to (8) above. The number of requests made is impossible to estimate accurately.

3. MEMBERSHIP INFORMATION

A. (1) 1960 - 3644, 1961 - 3587, 1962 - 3541, 1963 - 3528, 1964 - 3598, 1965 - 3541, 1966 - 3549, 1967 - 3646, 1968 - 3822, 1969 - 3866, 1970 - 3827, 1971 - 3800.

(2) 1960 - 324, 1961 - 306, 1962 - 460, 1963 - 441, 1964 - 484, 1965 - 474, 1966 - 346, 1967 - 376, 1968 - 266, 1969 - 286, 1970 - 330, 1971 - 410.

(5) 1960 - 1963 - none; See Exhibit "A"

(6) 1960 - 1963 - none; See Exhibit "A"

(7) 963

(8) 963

(10) a. 109

b. 90

(12) Unknown

(13) Unknown

(23) 1960 - 9, 1961 - 63, 1962 - 88, 1963 - 8, 1964 - 3, 1965 - 122, 1966 - 7, 1967 - 197, 1968 - 79, 1969 - 37, 1970 - 9.

a. All of above became journeymen members.

(21) Unknown

(24) The number of former apprentices who worked at the apprentice rates in effect at time

a. for 1 year or less - 973

b. for 2 years or less - 973

c. for 3 years or less - 973

d. for 4 years or less - 973

e. for 5 years or less - 973

B. Metal Trades Branch

(1) a. 1960 - 2220, 1961 - 2337, 1962 - 2545, 1963 - 2657, 1964 - 2847, 1965 - 2809, 1966 - 2875, 1967 - 2774, 1968 - 2866, 1969 - 3335, 1970 - 3656, 1971 - 3862.

b. No record kept.

c. No record kept.

C. Non-members

(1) a. There are a number of such individuals but the number is unknown and the number may vary from day to day.

i - Unknown

ii - Unknown

iii - None after 1964. Prior to 1964 the numbers are unknown.

v - No written test given by Union.

vi - The Union does not test the individuals.

vii - Unknown - but there are some.

viii - Unknown - although there are a number of such individuals.

D. As to applicants for journeyman membership there are approximately 1000.

As to applicants for apprentice membership please see Exhibit "B" attached.

4 A - EMPLOYER INFORMATION

(3) and (4) Employers on occasion ask for employees with different specialties; such as, welders, coppermen, sprinkler men, etc. They also have asked for members of minority groups because of job requirements. See Exhibit "C".

period.

Interrogatory 3(A)(12)

3. MEMBERSHIP INFORMATION

(A) as to the Construction Branch set forth:

(12) the number of journeymen members as of the date of the answer to this interrogatory who worked overtime during the period January 1, 1960 to date and the amount of overtime worked by all such members;

Answer to Interrogatory 3(A)(12)

See Appendices "A" and "B" which set forth the computer study devised by the Steamfitters Industry Funds and revised computer study of overtime worked, together with the letters from defendant's counsel describing the study. These materials were furnished to plaintiffs' counsel by mail under separate cover on October 6, 1972 and October 19, 1972, respectively.

Interrogatory 3(A)(13)

3. MEMBERSHIP INFORMATION

(A) (13) the number of apprentices members as of the date of the answer to this interrogatory who worked overtime during the period of January 1, 1960 to date and the amount of overtime worked by all such members.

Answer to Interrogatory 3(A)(13)

See answer to Interrogatory 3(A)(12) and Appendices referred to therein. The Steamfitters Industry Funds advise that the records and data upon which the studies are based do not distinguish between journeymen and apprentices, but

with the Association from January 1, 1966 to and including the date of the answer to this Interrogatory.

Answer to Interrogatory 2B

ASSOCIATION OFFICERS

NAME AND ADDRESS	RACE	TITLE	YEARS SERVED
Thomas F. Carty 39 Fanshaw Avenue Yonkers, N.Y. 10705	Caucasian	President	1966
Harold K. Raisler 1070 Park Avenue New York, N.Y. 10028	"	Vice-Pres. President	1966 1967
John N. Scanlon 609 Palmer Road Yonkers, N.Y. 10701	"	Treasurer Vice-Pres. President	1966 1967 1968
George F. Sheehan 48 Cunningham Avenue Floral Park, L.I., New York 11001	" "	Treasurer	1967
Edward P. Murphy 14 Chestnut St. Garden City, N.Y. 11530	"	Vice-Pres. President	1968 1969 to present
Ira Willner 4 Briar Del Circle Larchmont, N.Y. 10538	"	Treasurer	1968 to present
Arthur M. Alvord, Jr. Dempsey Lane Greenwich, Conn. 06830	"	Vice-Pres.	1969 to present
Joseph L. Hopkins 130 Elmsmere Road Bronxville, N.Y. 10708	"	Secretary	1966 to present
William A. Canavan 39 Plymouth Drive Scarsdale, NY 10583	"	Asst.Secy.	Apr. 1967 Sept. 1970
Guy E. Harper 169-16 23rd Ave. Flushing, N.Y. 11357	"	Asst. Secy.	Feb. 1966 Feb. 1968

3. Membership Information

Interrogatory 3A

Set forth the name and address of each person or entity that has been a member of the Association at any time since January 1, 1966 and:

(1) indicate, if the member is an individual, whether such member is:

(a) Black;

(b) Spanish-surnamed;

(2) indicate the beginning and ending dates of such person's or entity's membership in the Association.

Answer to Interrogatory 3A

There are no individuals who are members of the Association; all members are corporations. All other membership information requested is set forth in Appendix A to these answers.

Interrogatory 3B

For each year from and including 1960 to and including 1970 and for 1971 to the date of the Answer to this Interrogatory state:

(1) the total dollar value of all steamfitting contracts awarded to be performed within New York City and Nassau and Suffolk Counties;

(2) the total dollar value of all steamfitting contracts awarded to members of the Association to be performed within New York City and Nassau and Suffolk Counties;

(3) the total dollar value of all contracts for steamfitting work awarded by or for construction assisted by low interest loans from:

A-1201

to herein as Employer contributions, provided that said payments are made by check to the Trustees, subject to collection.

SIXTEENTH: This trust is created and accepted in the State of New York and all questions pertaining to the validity or construction of this instrument and of the acts and transactions of the parties hereto shall be determined in accordance with the laws of the State of New York.

SEVENTEENTH: The provisions of this Agreement and Declaration of Trust shall be deemed exclusively to define the powers, duties, rights and obligations of all persons who have a relation to the Trust Estate, except that the amount of the Employer contributions and dates for payment therof shall be as provided in the collective bargaining agreements between the Union and the Employers now or hereafter in effect, or as hereafter amended, supplemented or revised.

EIGHTEENTH: The Trustees, in their collective capacity, shall be known as "The Steamfitters Industry Educational Fund" and may conduct the business of the trust in that name.

NINETEENTH: The provisions of this Agreement and Declaration of Trust may be amended by an instrument in writing executed by the Trustees provided there are attached thereto a duly certified copy of a resolution approving such amendment adopted by the general organization of the Union at a regular meeting or at a special meeting called for that purpose, together with a duly certified copy of a resolution by the Board of Directors of the Association, duly approving such amendment, it being expressly understood and agreed that no

Interrogatory 2H

Identify each type of apprenticeship program application form used by the Apprenticeship Committee from July 2, 1965 to the date of the answer to this Interrogatory.

Answer to Interrogatory 2H

Plaintiffs were provided with a copy of the most current application form at the time of the service of these answers. While some changes have taken place in the form since July 2, 1965, the form provided to plaintiffs is substantially the same as that current in July, 1965. Although blank samples of each application form used since that date are no longer available, sample completed forms in the files of the Committee will be made available to the plaintiffs for inspection and copying at a mutually convenient time, if plaintiffs so desire.

Interrogatory 2I

Indicate as to each document identified in response to 2(F) through 2(H) whether a copy of it will be made available to Plaintiffs without the necessity of a motion pursuant to FRCP 34 and, if so, attach a copy of such document as part of the response to such Interrogatory.

Answer to Interrogatory 2I

Copies of each document specifically identified in Answer to Interrogatories 2(F) through 2(H) have already been made available to plaintiffs. In addition, the application forms whose identification was requested in Answer to Interrogatory 2H, and which are no longer available in blank will be made available to plaintiffs for inspection as previously

(5) Personal interviews were required of every applicant who had passed the written examination prior to that conducted on November 21, 1970. The interviews were conducted by members of the Committee and their purpose is outlined in documents entitled Qualifications and Evaluation and The Personal Interview Session, copies of which were provided to plaintiffs at the time of the service of these answers.

No applicant was ever rejected for admission to the apprenticeship program as a result of such an interview and consequently for the class indentured im June 1971, the personal interview was dispensed with and was replaced by a joint meeting of the Committee and the applicants at which the applicants were welcomed to the program and the program was explained and discussed.

Interrogatory 4B

Set forth the date on which the first apprenticeship program class was organized.

Answer to Interrogatory 4B

December 15, 1947

APPLICANTS FOR CLASS OF 1967

Examination Information

Date:	April 4, 1967
Place:	Voorhees Technical Institute New York, New York
Conducted & Scored by:	Stevens Institute of Technology Hoboken, New Jersey
Passing Score:	50th percentile or higher in each of the four components.

No one in this class has as yet completed the program.

Summary

Number of Applicants	Took Exam	Passed Exam	Admitted into Program
White	173	41	41
Black	11	2	2
Spanish surnamed-Americans	3	0	0

Applic. No. A-1205

QUALIFICATIONS AND EVALUATION

Steamfitting Trade

Of: .....
(Applicant)

	Maximum Points Allowable	Score
Total	90	
JOB APTITUDE Measured through test administered by the Stevens Institute of Technology. Test results will be converted to the 90 points scale on a proportional basis.		
Total	10	
PERSONAL TRAITS (Evaluated by interview)		
Personality characteristics important in apprenticeship.	2	
Ability to communicate.	2	
Willingness to accept obligation of apprenticeship.	2	
Ability to reason and comprehend.	2	
Interest and motivation.	2	
TOTAL ALLOWABLE POINTS	100	

*TOTAL SCORE

MINIMUM QUALIFYING SCORE 32.5

RANK .....

Evaluated by: .....
(Signature)

.....
(Date)

Sponsor: Joint Steamfitting Apprenticeship Committee
of Steamfitters' Local Union No. 638, and
Mechanical Contractors Association of New York, Inc.

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Form 7

VINCENT D. McDONNELL, Esq.
Administrator, A.A.P., U.S. v. Local 638 et al.

July Filed Papers

A-1206

July 11, 1975

The Honorable Dudley B. Bonsal
U.S. District Court Judge
U.S. District Courthouse
Room 1902
Foley Square
New York, New York 10007

Re: 71 CIV 847
71 CIV 2877
STEAMFITTER INDUSTRY

Dear Judge Bonsal:

Submitted herewith is the yearly report required to be submitted to the Court "on or before July 31, 1975" under paragraph 5 of the Order Adopting Affirmative Action Plan dated March 20, 1974.

At the outset I am pleased to inform you that in accordance with the standards set forth under paragraph 4 of the AAP and the goals in paragraph 3 AAP requiring 20% minority membership by July 15, 1975, as modified by your new Order (after the June 24, 1974 decision of the U.S. Court of Appeals, Second Circuit) and as a result of the hearings and arguments before your Court, to provide for the following goal percentages:

1975 - 18%
1976 - 23%
1977 - 26%

I AM PLEASED TO ADVISE YOU THAT THE UNION EXCEEDED ITS PERCENTAGE GOALS NOT ONLY OF THE MODIFICATION BUT OF THE ORIGINAL REQUIREMENT AS STATED ABOVE.

The Steamfitter Fund's Office letter of May 29, 1975 reports the following minority members as of June 1975. The list of the specific names of the individuals involved are enclosed herewith for the Court's files and records.

Journeymen (A men)	638
Apprentices	163
Trainees	59
Total	860

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Based upon the Steamfitters Industry Fund's Offices report to the Administrator dated May 29, 1975 as required by paragraph 5 AAP and under the conditions set forth in that paragraph I report the following over-all union membership:

Journeymen (1 or more hours)	3,132
Journeymen members (disability)	36
Apprenticeship program	531
Trainees	61*
Permit man (800 + hours)	224
Total	3,984

Eight hundred sixty minority members (all categories) of a total of 3,984 members, (all categories as set forth in paragraph 4 AAP) equals a total of approximately 22%. The original requirement of 20% has been exceeded and of course the modified requirement of 18% has been well exceeded.

There are two important points to be noted about these statistics. First, there was a substantial reduction in the number of "Permit Men" working for the purpose of calculations under Paragraph 4 (5) AAP this year than there was in 1974. In 1974, there were 696 and this was reduced to 224 in 1975. It is hoped that as the number of permit men is reduced, minority members will be given the opportunity to develop employment in those areas.

The apprenticeship program was reduced from a total of 636 in 1974 with 147 minority members, to 531 in 1975 with 163 minority members. This approximates a 21% minority member rate in 1974 as opposed to more than a 30% minority member rate in 1975. It should also be noted that due to the great unemployment in the entire construction industry, including the steamfitter industry, there has been considerable unemployment in the apprenticeship program. As a consequence, as Administrator, I determined and we discussed in the lawyer's conference at your Court, that the required class of 100 apprentices to be indentured in 1974 was to be delayed and it was delayed. (Paragraph 13 AAP plus footnote at page 4 AAP).

It is interesting to note that 1,651 applications for the apprenticeship program were issued from May 20, 1974 to April 15, 1975. The apprenticeship office received in return 356 applications, of which 253 were received from minority applicants. The apprenticeship office has been instructed by the Administrator to continue to search out and to accept applications from minority persons to be absolutely sure sufficient applications are in the "pipeline" to be available when it is considered appropriate to indenture a new class. By my letter of January 6, 1975 and Your Honor's acknowledgement of January 8, 1975, I pointed out the number of hours worked by minority

*Difference 59 and 61 due to dates of report.

persons during the first three quarters of 1974 came to well over 1/2 million hours (531,884.5) for the 9 month period. The report for the calendar year 1974 issued on April 9, 1975 by the "Fund's Office" shows a total of 4,616,476 hours worked by 2,712 whites and 624 minority workers. The minority members working a little better than 11% or 515,868.5 hours of the total. In addition, 108 minority members and 394 whites worked a total of 623,155.5 hours in the apprenticeship program with the minority members working a little more than 15% in this area or 108,898.5 hours of the total. Additionally, the minority trainee members worked a total of 71,760 hours for an additional approximate 1 1/2%. Thus, with unemployment running ridiculously high, there has been continued use of minority members in the industry.

There are a couple other matters about which I should comment upon. I am satisfied that the numbers involved in the percentage goals as set forth in your Order have been met and the union and the industry have cooperated fully in the achievement of this result. My letter report to you of June 21, 1974 showed what I considered to be remarkable progress in the first year of the Order. This progress was commented upon in the Court actions and very favorably by the former Asst. U.S. Attorney (Mr. Joel B. Harris) in a Cornell Law Review Article (Vol. 60, No. 1, Nov. 1974). Mr. Harris among other gracious comments stated "facing immediate deadlines without having been exposed to the extensive background of the case, the Administrator nonetheless performed decisively and effectively". There is no question as to the numbers accepted by the union to meet the goals. All are to be commended for this cooperation in this result. There is, however, a requirement to pursue the employment and unemployment situation at both the journeymen level and at the apprenticeship and training level. In the apprenticeship program alone, as of April 15, 1975, there were 155 white, 86 black, and 30 spanish surnamed apprentices unemployed. This is a most unsatisfactory situation.

With the above point in mind, and not being satisfied fully with the system of Registers and Lists, I wrote to all parties on February 5, 1975, requesting they review the Register and List system, which in theory is a good system, as set forth in paragraphs 17 and 18 of the AAP in the hope of updating the system. In practice however it leaves much to be desired.

Both plaintiffs - The U.S. Attorney and the attorney for the Rios plaintiffs - suggested a union hiring hall. This is objected to by all of the other parties. The attorney for the Mechanical Contractors Association recommended a system of notice through the Industry Fund's Office. The union through its attorney recommended no change in the procedures set forth by the Court Order. Both attorneys for Steamfitters Apprenticeship Committee trustees had

Street and Park at Hunter College. The defendant is going to put up two enormous buildings. So far there are two enormous holes. They go down awfully deep so they must be building something pretty big up there.

MR. GLASSMAN: Your Honor, we would like to comment that I think we share displeasure at the unemployment, and there is a good deal of unemployment, but all of the Government indicators are as well that the minority groups are suffering worse than anyone else in the unemployment and our basic concern simply is that even if we slow down to some degree things like the apprentice program, that we still keep the pipeline open.

THE COURT: I think that's fair enough. That's what Mr. McDonnell said, too. We have got to do that.

MR. GLASSMAN: Also on the economy, we don't know who to believe. There are at least a number of people talking about an upswing towards the end of the year, but obviously we don't know quite when it will happen and in some areas such as pollution projects there is still a good deal of Government funding around in which there is viable projects, so work is certainly slower than we would all like, but there is work around.

MR. YEAGER: Your Honor, one question I would like to raise would be whether or not we can get some sort

of continued reporting on employment and unemployment such as the one that we got at the end of September. It seems to me that that is kind of important if we are going to have any benchmark by which to judge.

THE COURT: That is one of the things I was asking Mr. Brook about. The general figures are not necessarily controlling, but I would be interested if there is any way of getting any figures on Local 638 on the A men, what the unemployment is today and how that has changed from the last time. Is there any way of getting that?

MR. BROOK: I will see what can be done. As I said, the most accurate measure and the easiest measure is one which is no longer valid.

THE COURT: Yes.

MR. MC DONNELL: Your Honor, conversely rather than figures on unemployment, we have the figures on the employment which are the figures that we got the one report on.

That was something as I recall it, of 3,500,000 hours total time worked in the nine-month period of which 310,000 or 11 percent or somewheres thereabouts, was worked by the minority employees.

THE COURT: Right.

MR. MC DONNELL: The second report of that type

8. The Apprenticeship Training Program ... four years in duration, and the Joint Apprenticeship Committee (hereinafter "JAC") shall obtain such approval as is necessary from federal and state agencies. Upon completion of the Program, apprentices shall be admitted as journeyman members of the A Branch.

9. Applicants to the Program shall be selected pursuant to the following standards:

(a) Residence: Applicants must be residents of New York City or Nassau or Suffolk Counties at the time of application, or of such adjoining areas as may be approved by the Administrator.

(b) Age: Applicants shall be between the ages of 18 and 30, inclusive, at the time of application.

(c) Criminal Records: Applicants shall not have been convicted of a job-related crime within the five years preceding their application. If JAC finds that any applicant was convicted of such a job-related crime, it shall submit the application to the Administrator for final decision before excluding the applicant from the Program.

(d) Education: Applicants shall have a high school diploma or its equivalent, and all notices and advertising shall so state. However, should any recruitment campaign not produce enough high school graduates (or equivalent), the Administrator may reduce this requirement for any subsequent class if in his judgment the minimum annual goals set forth in paragraph 3 cannot be met.

10. Tests: Two lists of applicants shall be established by JAC, one list for non-whites and one for all others. Each list shall be based upon the grades achieved

through the S-61R written test and upon the results of an oral interview given each applicant by JAC. Applicants selected on the basis of the written test and oral interview shall, upon payment of a $25 fee to the JAC, undergo a physical examination and, upon being found physically fit, shall be indentured into the Apprentice Program.

11. Validation: Should a properly validated written test be approved by an appropriate governmental agency, such test may be used for admission purposes upon approval by the Court on the recommendation of the Administrator.

12. Placement: JAC, with the cooperation of the parties, shall use its best efforts to provide apprentices with continuous employment, and to see that each employer who has a contract with the Union employs apprentices in reasonable proportion to the number of journeymen employed by said employer. JAC shall render a periodic report to the Administrator which shall contain the name of each unemployed apprentice who is able to work but unable to find employment and the name of each employer, setting forth the number of its apprentices and journeymen.

13. Numbers: Unless the Administrator otherwise determines, there shall be a minimum of 100 non-whites indentured into the Program each year (e.g., 1974, 1975, 1976 or 1977). If any non-whites drop out of the Program in any year an equal

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

SCOTT ALVINO, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at 5701 15 Ave. Brooklyn, New York.

That on the 2nd day of March, 1976, deponent personally served the within SECOND SUPPLEMENTAL APPENDIX upon the attorneys designated below who represent the indicated parties in this action and at the addresses below stated which are those that have been designated by said attorneys for that purpose.

By leaving 1 true copy ~~copies~~ of same with a duly authorized person at their designated office.

~~By depositing~~ _____ true copies of same ~~enclosed~~ in a postpaid ~~properly addressed wrapper~~, in the post office or official ~~depository~~ under the ~~exclusive~~ care and custody of the United Stated post office department ~~within the State~~ of New York.

Names af attorneys served, together with the names of the clients represented and the attorneys' designated addresses.

TUFO, JOHNSTON & ALLEGAERT
Attorneys for Plaintiffs-Appellants George Rios, et al
645 Madison Avenue
New York, N. Y. 10022

Scott Alvino

Sworn to before me this
2nd day of March, 1976.

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Bronx County
Commission Expires March 30, 1977

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

IAN G. CAMPBELL, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at 356 W 34 St NEW YORK 10001.

That on the 1st day of March, 1976, deponent personally served the within ~~SECOND SUPPLEMENTAL~~ APPENDIX upon the attorneys designated below who represent the indicated parties in this action and at the addresses below stated which are those that have been designated by said attorneys for that purpose.

By leaving 1 true copy/~~copies~~ of same with a duly authorized person at their designated office.

~~By depositing _____ true copies of same enclosed in a postpaid properly addressed wrapper, in the post office or official depository under the exclusive care and custody of the United Stated post office department within the State of New York.~~

Names af attorneys served, together with the names of the clients represented and the attorneys' designated addresses.

MARILYN WALTER
National Employment Law Project
Attorneys for Plaintiffs-Appellants, George Rios, et al.
423 West 118th Street
New York, New York 10027

Ian Campbell

Sworn to before me this
1st day of March, 19 76

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Bronx County
Commission Expires March 30, 1977

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

VINCENT PANZA, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at 202 Ellis Ave. Bronx, New York.

That on the 2nd day of March, 1976, deponent personally served the within SECOND SUPPLEMENTAL APPENDIX upon the attorneys designated below who represent the indicated parties in this action and at the addresses below stated which are those that have been designated by said attorneys for that purpose.

By leaving 1 true copy of same with a duly authorized person at their designated office.

~~By depositing~~ true copies of same enclosed in a postpaid properly addressed wrapper, in the post office or official depository under the exclusive care and custody of the United States post office department within the State of New York.

Names af attorneys served, together with the names of the clients represented and the attorneys' designated addresses.

THOMAS J. CAHILL
United States Attorney
Attorney for Plaintiff-Appellant
Equal Employment Opportunity Commission
1 St. Andrews Plaza
New York, New York 10007

Vincent Panza

Sworn to before me this

2nd day of March, 1976.

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Bronx County
Commission Expires March 30, 1977

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STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

KENNETH KENNEDY, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at 1171 Sterling Pl. Brooklyn, New York.

That on the 2nd day of March, 1976, deponent personally served the within SECOND SUPPLEMENTAL APPENDIX upon the attorneys designated below who represent the indicated parties in this action and at the addresses below stated which are those that have been designated by said attorneys for that purpose.

By leaving 1 copy true/~~copies~~ of same with a duly authorized person at their designated office.

By depositing _____ true copies of same enclosed in a postpaid properly addressed wrapper, in the post office or official depository under the exclusive care and custody of the United Stated post office department within the State of New York.

Names af attorneys served, together with the names of the clients represented and the attorney ' designated addresses.

BREED, ABBOTT & MORGAN
Attorneys for Defendant-Appellee Mechanical Contractors Association of New York, Inc. and Defendant-Appellees Employer Members, Joint Steamfitting Apprenticeship Committee
1 Chase Manhattan Plaza
New York, New York 10005

Kenneth E. Kennedy

Sworn to before me this

2nd day of March, 1976.

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930 08
Qualified in Bronx County
Commission Expires March 30, 1977